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B I L L S,

PUBLIC:

SEVEN VOLUMES.

—(1.)—

ADMIRALTY JURISDICTION (IRELAND)

TO

CRUELTY TO ANIMALS.

Session

8 *February*—15 *August* 1876.

VOL. I.

1876.

BILLS:

1876.

SEVEN VOLUMES:—CONTENTS OF THE

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Admiralty Jurisdiction (Ireland) Bill

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Construction of Act.
3. Admiralty jurisdiction of Recorders of Cork and Belfast.
4. Power to arrest and hold to bail.
5. Bail in certain cases.
6. Procedure.
7. Nautical assessors in recorders courts.
8. Courts for hearing Admiralty causes.
9. In certain cases may sue by Civil Bill.
10. Additional salaries.
11. Power to appoint marshals.
12. Appeal.
13. Amendment of thirty-seventh section of principal Act.

[Bill 121.]

A

B I L L

TO

Amend the Court of Admiralty (Ireland) Act, 1867, and confer a more extended Admiralty Jurisdiction on the Recorders of Cork and Belfast. A.D. 1876.

WHEREAS it is expedient to extend the jurisdiction in Admiralty conferred by the Court of Admiralty (Ireland) Act, 1867, (in this Act referred to as "the principal Act,") upon the recorders of the boroughs of Cork and Belfast:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Court of Admiralty (Ireland) Amendment Act, 1876.

Construction of Act.

2. The principal Act as amended by this Act and this Act shall be construed together as one Act.

Admiralty jurisdiction of Recorders of Cork and Belfast.

3. The district within which Admiralty jurisdiction may be exercised by the Court of the Recorder of the borough of Cork shall be the county of Cork, with the parts of the sea adjacent to the same to a distance of three miles from the shore thereof; and the district within which Admiralty jurisdiction may be exercised by the Court of the Recorder of the borough of Belfast shall be the counties of Antrim and Down, with the parts of the sea adjacent to the same to a distance of three miles from the shore thereof.

In addition to any jurisdiction conferred by the principal Act upon these courts, each of them shall have all such jurisdiction, power, and authority as may be necessary for the trial and determination of any cause relating to all or any of the matters following (in this Act referred to as an "Admiralty cause"):

(1.) As to any claim for salvage, any cause in which the value of the property saved does not exceed *one thousand pounds*, or in which the amount claimed does not exceed *three hundred pounds*:

A.D. 1876.

(2.) As to any claim for towage, necessaries, or wages, any cause in which the amount does not exceed *three hundred pounds:*

(3.) As to any claim for damage to cargo or damage by collision, any cause in which the amount claimed does not exceed *three hundred pounds:*

(4.) As to any claim arising out of any agreement made in relation to the use or hire of any ship, or in relation to the carriage of goods in any ship, and also as to any claim in tort in respect of goods carried in any ship, provided the amount claimed does not exceed *three hundred pounds:*

(5.) Any cause in respect of any such claims as aforesaid, in which the value of the property saved or the amount claimed is beyond the amount limited as above mentioned, when the parties agree by a memorandum, signed by them or by their attorneys or agents, that the court shall have jurisdiction, and hear and determine the same.

Power to arrest and hold to bail.

4. Each of the said courts shall have jurisdiction to arrest and hold to bail, notwithstanding that the amount sued for in the cause shall exceed the limit fixed by the principal Act or by this Act; but in such cases the cause shall in other respects be subject to the provisions of the seventy-seventh section of the principal Act.

Bail in certain cases.

5. If a ship or goods shall be arrested, by a warrant from the High Court of Admiralty in Ireland, within a district subject to the jurisdiction of the court of either of the said recorders, (except in the case of final execution,) bail may be given before the recorder in whose district the same shall have been arrested; and such recorder shall have in respect of the proceedings for that purpose the same authority and power as the Judge of the High Court of Admiralty, subject, however, upon appeal, to the control and direction of the said Judge.

Procedure.

6. The mode of procedure in the courts of the said recorders in Admiralty causes, and the scale of costs and charges to be payable in respect of Admiralty business in such courts, shall be regulated and fixed by rules and orders to be made by the Lord Chancellor, with the concurrence of the said recorders or one of them.

The Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury, may also fix and determine what court and office fees shall be payable in respect of such business.

Nautical assessors in recorders courts.

7. On the hearing of any Admiralty cause by any one of the said recorders, such recorder shall have power to call to his assistance one

or more nautical assessor or assessors, to be selected by him; and the advice and opinion of such nautical assessor or assessors may be taken by the said recorder in the same manner as is in use in the High Court of Admiralty (Ireland); and such recorder shall have power to direct what remuneration shall be paid to each such assessor for his attendance, and to order the same to be paid by such of the parties to the cause as he shall think just.

Courts for hearing Admiralty causes.

8. The said recorders respectively shall hear and determine Admiralty causes at the usual courts held within their jurisdiction, or at special courts to be held by them, and which they are hereby required to hold as soon as may be, after they shall respectively have had notice of an Admiralty cause having arisen within the jurisdiction of their respective courts.

In certain cases may sue by Civil Bill.

9. When the amount or value in dispute shall not exceed fifty pounds, the same may be sued for by Civil Bill process, and the proceedings conducted in the same manner and subject to the same rules as are applicable to other actions by Civil Bill.

Additional salaries.

10. Each of the said recorders shall, in consideration of the duties hereby imposed upon him, receive such annual sum, not exceeding *one hundred pounds*, as the Lord Lieutenant with the concurrence of the Commissioners of Her Majesty's Treasury may direct, such annual sum to be charged upon the Consolidated Fund, and payable on the same days and in the same manner as the salaries of chairmen of the Civil Bill Courts.

Power to appoint marshals.

11. It shall be lawful for each of the said recorders, with the approval of the Lord Chancellor, to appoint some officer of his court or other fit person to act as marshal within the district over which such recorder has jurisdiction; and such person shall, while acting as such marshal, have, exercise, and be subject to the like jurisdiction, powers, authorities, and liabilities within such district as the marshal of the High Court of Admiralty in Ireland; and such person while acting as such marshal as aforesaid shall be entitled to claim and receive such fees in respect of Admiralty business as from time to time the Lord Chancellor, with the approval of the Commissioners of Her Majesty's Treasury, shall order and direct.

The registrar and other officers of the courts of said recorders may also receive, for their own use, such fees in respect of Admiralty business as the Lord Chancellor with such concurrence as aforesaid may direct.

Every officer receiving fees shall keep an account of the fees received by him, and shall be bound, when required, to furnish to the

A.D. 1876.

Commissioners of Her Majesty's Treasury an account of his receipts: Provided that it shall be lawful for said Commissioners at any time to order that such officers shall be paid by salaries instead of fees, and to fix the salaries, and thereupon the fees paid to such officers shall be by them paid over to the said Commissioners, and carried to the account of the Consolidated Fund, and the salaries of such officers shall be *paid out of moneys to be provided by Parliament.*

In causes transmitted from the court of either of the said recorders to the High Court of Admiralty, the person for the time being appointed by such recorder to act as marshal in the district subject to his jurisdiction shall be subject to, and bound to obey, the judge of the High Court of Admiralty.

The marshal of the High Court of Admiralty shall act only in proceedings in the High Court.

Appeal.

12. An appeal shall lie from decrees and orders made in Admiralty causes within the provisions of this Act to the same tribunal, and in the same manner, and subject to the same rules as are provided in the principal Act in reference to cases within the jurisdiction of local courts, and the several provisions of the principal Act in relation to local courts (except when the same shall be inconsistent with the provisions of this Act) shall apply to causes and proceedings under this Act.

Amendment of thirty-seventh section of principal Act.

13. The jurisdiction conferred by the thirty-seventh section of the principal Act upon the High Court of Admiralty shall be and is hereby extended to goods shipped upon or carried or about to be shipped upon or carried by any ship from any port in Ireland.

This jurisdiction as extended may and shall be exercised by the recorders of the boroughs of Cork and Belfast respectively, where the amount claimed does not exceed *three hundred pounds.*

Admiralty Jurisdiction (Ireland).

A

B I L L

To amend the Court of Admiralty (Ireland) Act, 1867, and confer a more extended Admiralty Jurisdiction on the Recorders of Cork and Belfast.

(*Prepared and brought in by Mr. Solicitor General for Ireland and Sir Michael Hicks Beach.*)

Ordered, by The House of Commons, *to be Printed*, 6 *April* 1876.

[Bill 121.]

Under 1 *oz.*

LORDS AMENDMENTS

TO THE

ADMIRALTY JURISDICTION (IRELAND) BILL.

Note.—*The page and line refer to the Bill* (95.) *as first printed by the Lords.*

Page 3.

Line 6, at end of clause 7. add ("and such fees shall be received "and accounted for in the manner provided in the one hun- "dred and fourteenth and one hundred and fifteenth sections "of the principal Act")

Page 4.

Line 14, leave out from ("be") to ("and") in line 15, and insert ("paid into the Exchequer at such times and under such "regulations as the said Commissioners shall direct")

After clause 12. insert clause (A.):

CLAUSE (A.) In case of the illness or unavoidable absence of any person who at the time of the passing of this Act shall hold the office of registrar of either of the said courts, it shall be lawful for such registrar from time to time to appoint a good and sufficient deputy, subject to the approval of the Lord Chancellor, to act during the illness or unavoidable absence of such registrar in his place and for the discharge of the duties by this Act imposed upon such registrar, but not further or otherwise.

The registrar appointing any deputy under this section shall pay the remuneration of such deputy, and shall continue liable notwithstanding such appointment for the due discharge of the duties by this Act imposed upon such registrar.

Line 38, leave out ("three") and insert ("four")

Line 40, after ("made") insert ("for or"), and after ("ship") insert ("or for")

[Bill 222.]

LORDS AMENDMENTS

TO THE

ADMIRALTY JURISDICTION (IRELAND) BILL.

Ordered, by The House of Commons, *to be Printed*, 3 *July* 1876.

[Bill 222.]

Under 1 *oz.*

Agricultural Holdings (Scotland) Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

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52. Application of Act to existing tenancies.
53. Exception of non-agricultural and small holdings.
54. Exception where other compensation.
55. General saving of rights.

A

B I L L

INTITULED

An Act for amending the Law relating to Agricultural Holdings in Scotland. A.D. 1876.

[Note.—*The clause printed in red ink is proposed to be inserted in Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as The Agricultural Holdings (Scotland) Act, 1876.

Commencement of Act.

2. This Act shall commence from and immediately after the first day of June one thousand eight hundred and seventy-seven.

Extent of Act.

3. This Act shall not extend to England or Ireland.

Interpretation.

4. In this Act—

"Contract of tenancy" means a letting of land for a term of years, or for lives, or for lives and years, or from year to year, or at will:

"Determination of tenancy" means the termination of a contract of tenancy by reason of effluxion of time, or from any other cause: Provided that where there is a separate ish as regards lands and houses or otherwise, the contract of tenancy shall be held to terminate at the ish which is last in date:

"Landlord" means the person for the time being entitled to possession of land subject to a contract of tenancy, or entitled to receipt of rent stipulated by a contract of tenancy, whatever be the extent of his interest, and although the land or his interest therein is incumbered or charged to any extent; the party to a contract of tenancy under which land is actually occupied being alone deemed to be the landlord in relation to the actual occupier:

A.D. 1876.

"Tenant" means the holder of land under a contract of tenancy:

"Landlord" or "tenant" includes the agent authorized in writing to act under this Act generally or for any special purpose, and the heirs, assignees, husband, tutor, curator or other guardian, judicial factor, or trustee in bankruptcy or otherwise, of a landlord or tenant:

"Holding" includes all land held by the same tenant of the same landlord for the same term under the same contract of tenancy:

"Absolute owner" means the owner or person capable of disposing either inter vivos or mortis causa of the fee simple or whole interest of or in land, although the land or his interest therein is mortgaged, encumbered, or charged to any extent:

"Sheriff" means the sheriff of the county within which a holding or the larger part thereof is situate, and includes sheriff substitute:

"Person" includes a body of persons and a corporation aggregate or sole.

The designations of landlord and tenant shall, for the purposes of this Act, continue to apply to the parties to a contract of tenancy until the conclusion of any proceedings taken under this Act on the determination of the tenancy.

Compensation.

Tenant's title to compensation.

5. Where after the commencement of this Act a tenant executes on his holding an improvement comprised in either of the three classes following:

First Class.

Drainage of land.	Making or improving of water-courses, ponds, wells, or reservoirs, or of works for supply of water for agricultural or domestic purposes.
Erection or enlargement of buildings.	
Laying down of permanent pasture.	
Making of water meadows or works of irrigation.	Making of fences.
Making of gardens.	Reclamation of waste land.
Making or improving of roads or bridges.	Weiring or embanking of land.

SECOND CLASS.

Boning of land with undissolved bones.	Liming of land.

THIRD CLASS.

Application to land of purchased artificial or other purchased manure.	Consumption on the holding by cattle, sheep, or pigs, of cake or other feeding stuff not produced on the holding.

he shall be entitled, subject to the provisions of this Act, to obtain, on the determination of the tenancy, compensation in respect of the improvement.

Time in which improvement exhausted.

6. An improvement shall not in any case be deemed, for the purposes of this Act, to continue unexhausted beyond the respective times following after the year of tenancy in which the outlay thereon is made:

Where the improvement is of the first class, the end of twenty years:

Where it is of the second class, the end of seven years:

Where it is of the third class, the end of two years.

Amount of tenant's compensation in first class.

7. The amount of the tenant's compensation in respect of an improvement of the first class shall, subject to the provisions of this Act, be the sum laid out by the tenant on the improvement, with a deduction of a proportional part thereof for each year while the tenancy endures after the year of tenancy in which the outlay is made, and while the improvement continues unexhausted; but so that where the landlord was not, at the time of the consent given to the execution of the improvement, absolute owner of the holding for his own benefit, the amount of the compensation shall not exceed a capital sum fairly representing the addition which the improvement, as far as it continues unexhausted at the determination of the tenancy, then makes to the letting value of the holding.

Amount of tenant's compensation in second class.

8. The amount of the tenant's compensation in respect of an improvement of the second class shall, subject to the provisions of this Act, be the sum properly laid out by the tenant on the improvement, with a deduction of a proportionate part thereof for each year while the tenancy endures after the year of tenancy in which the outlay is made, and while the improvement continues unexhausted.

A.D. 1876.

Amount of tenant's compensation in third class.

9. The amount of the tenant's compensation in respect of an improvement of the third class shall, subject to the provisions of this Act, be such proportion of the sum properly laid out by the tenant on the improvement as fairly represents the value thereof at the determination of the tenancy to an incoming tenant.

Consent of landlord for first class.

10. The tenant shall not be entitled to compensation in respect of an improvement of the first class unless he has executed it with the previous consent in writing of the landlord.

Deduction in first class for want of repair, &c.

11. In the ascertainment of the amount of the tenant's compensation in respect of an improvement of the first class there shall be taken into account in reduction thereof any sum reasonably necessary to be expended for the purpose of putting the same into tenantable repair or good condition.

Notice to landlord for second class.

12. The tenant shall not be entitled to compensation in respect of an improvement of the second class unless, not more than forty-two and not less than seven days before beginning to execute it, he has given to the landlord notice in writing of his intention to do so, nor where it is executed after the tenant has given or received warning or notice to remove, unless it is executed with the previous consent in writing of the landlord.

Exclusion of compensation in third class after exhausting crop.

13. The tenant shall not be entitled to compensation in respect of an improvement of the third class where, after the execution thereof, there has been taken from the portion of the holding on which the same was executed a crop of corn, potatoes, hay, or seed, or any other exhausting crop.

Exclusion of compensation for consumption of cake, &c. in certain cases.

14. The tenant shall not be entitled to compensation in respect of an improvement of the third class, consisting in the consumption of cake or other feeding stuff, where, under the custom of the country or an agreement, he is entitled to and claims payment from the landlord or incoming tenant in respect of the additional value given by that consumption to the manure left on the holding at the determination of the tenancy.

Restrictions as to third class.

15. In the ascertainment of the amount of compensation in respect of an improvement of the third class—

(1.) There shall not be taken into account any larger outlay during the last year of the tenancy than the average amount of the tenant's outlay for like purposes during the three next preceding years of the tenancy, or other less number of years for which the tenancy has endured; and

(2.) There shall be deducted the value of the manure that would have been produced by the consumption on the holding of any hay, straw, roots, or green crops sold off the holding within the last two years of the tenancy, or other less time for which the tenancy has endured, except as far as a proper return of manure to the holding has been made in respect of such produce sold off.

Deductions from compensation for taxes, rent, &c.

16. The amount of the tenant's compensation shall be subject to the following deductions :

(1.) For taxes, rates, and assessments due or becoming due in respect of the holding to which the tenant is liable as between him and the landlord :

(2.) For rent due or becoming due in respect of the holding :

(3.) For the landlord's compensation under this Act.

Set-off of benefit to tenant.

17. In the ascertainment of the amount of the tenant's compensation there shall be taken into account in reduction thereof any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement.

Tenant's compensation for breach of lease.

18. Where a landlord commits a breach of a lease or other agreement connected with the contract of tenancy, and the tenant claims under this Act compensation in respect of an improvement, then the tenant shall be entitled to obtain, on the determination of the tenancy, compensation in respect of the breach, subject and according to the provisions of this Act.

Landlord's title to compensation.

19. Where a tenant commits or permits deterioration, or commits a breach of a lease or other agreement connected with the contract of tenancy, and the tenant claims compensation under this Act in respect of an improvement, then the landlord shall be entitled by counter-claim, but not otherwise, to obtain, on the determination of the tenancy, compensation in respect of the deterioration or breach, subject and according to the provisions of this Act.

But nothing in this section shall enable a landlord to obtain under this Act compensation in respect of deterioration or a breach committed or permitted in relation to a matter of husbandry more than four years before the determination of the tenancy.

Procedure.

Notice of intended claim.

20. Notwithstanding anything in this Act, a tenant shall not be entitled to compensation under this Act unless one month at least before the determination of the tenancy he gives notice in writing to the landlord of his intention to make a claim for compensation under this Act.

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Where a tenant gives such a notice the landlord may, before the determination of the tenancy, or within fourteen days thereafter, give a counter-notice in writing to the tenant of his intention to make a claim for compensation under this Act.

Every such notice and counter-notice shall state, as far as reasonably may be, the particulars of the intended claim.

Compensation agreed or settled by reference.

21. The landlord and the tenant may agree on the amount and mode and time of payment of compensation to be paid to the tenant or to the landlord under this Act.

If in any case they do not so agree the difference shall be settled by a reference.

Appointment of referee or referees and oversman.

22. Where there is a reference under this Act, a referee, or two referees and an oversman, shall be appointed as follows:

(1.) If the parties concur, there may be a single referee appointed by them jointly:

(2.) If before award the single referee dies or becomes incapable of acting, or for seven days after notice from the parties, or either of them, requiring him to act, fails to act, the proceedings shall begin afresh, as if no referee had been appointed:

(3.) If the parties do not concur in the appointment of a single referee, each of them shall appoint a referee:

(4.) If before award one of two referees dies or becomes incapable of acting, or for seven days after notice from either party requiring him to act fails to act, the party appointing him shall appoint another referee:

(5.) Notice of every appointment of a referee by either party shall be given to the other party:

(6.) If for fourteen days after notice by one party to the other to appoint a referee, or another referee, the other party fails to do so, then, on the application of the party giving notice, the sheriff shall within fourteen days appoint a competent and impartial person to be a referee:

(7.) Where two referees are appointed, then (subject to the provisions of this Act) they shall before they enter on the reference appoint an oversman:

(8.) If before award an oversman dies or becomes incapable of acting, the referees shall appoint another oversman:

(9.) If for seven days after request from either party the referees fail to appoint an oversman, or another oversman, then, on the application of either party, the sheriff shall within

fourteen days appoint a competent and impartial person to be the oversman:

(10.) Every appointment, notice, and request under this section shall be in writing.

Appointment of oversman.

23. Provided that where two referees are appointed, an oversman may be appointed by the sheriff as follows:

If either party, on appointing a referee, requires by notice in writing to the other party that the oversman shall be appointed by the sheriff, then, unless the other party dissents by notice in writing therefrom, the oversman, and any successor to him, shall, on the application of either party, be so appointed.

Exercise of powers of sheriff.

24. The powers of the sheriff under this Act relative to the appointment of a referee or oversman shall be exerciseable by him whether he is without or within the county.

Mode of submission to reference.

25. The delivery to a referee of his appointment shall be deemed a submission to a reference by the party delivering it, and neither party shall have power to revoke a submission, or the appointment of a referee, without the consent of the other.

Power for referee, &c. to require production of documents, administer oaths, &c.

26. The referee or referees or oversman may call for the production of any sample or voucher or other document or other evidence which is in the possession or power of either party, or which either party can produce, and which to the referee or referees or oversman seems necessary for determination of the matters referred, and may take the examination of the parties and witnesses on oath, and may administer oaths and take affirmations; and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Power to proceed in absence.

27. The referee or referees or oversman may proceed in the absence of either party where the same appears to him or them expedient after notice given to the parties.

Form of award.

28. The award shall be in writing, signed by the referee or referees or oversman.

Time for award of referee or referees.

29. A single referee shall make his award ready for delivery within twenty-eight days after his appointment.

Two referees shall make their award ready for delivery within twenty-eight days after the appointment of the last appointed of them, or within such extended time (if any) as they from time to time jointly fix by writing under their hands, so that they make their award ready for delivery within a time not exceeding

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in the whole forty-nine days after the appointment of the last appointed of them.

Reference to and award by oversman.

30. Where two referees are appointed and act, if they fail to make their award ready for delivery within the time aforesaid, then, on the expiration of that time, their authority shall cease, and thereupon the matters referred to them shall stand referred to the oversman.

The oversman shall make his award ready for delivery within twenty-eight days after notice in writing given to him by either party or referee of the reference to him, or within such extended time (if any) as the sheriff from time to time appoints, on the application of the oversman, or of either party, made before the expiration of the time appointed by or extended under this section.

The powers of the sheriff under this section shall be exerciseable by him without as well as within the county.

Duration of improvement to be found.

31. The award shall find and state the time at which each improvement in respect whereof compensation is awarded is taken, for the purposes of the award, to be exhausted.

Award to give particulars.

32. The award shall not award a sum generally for compensation, but shall, as far as reasonably may be, specify—

The several improvements, acts, and things in respect whereof compensation is awarded;

The time at which each thereof was executed, committed, or permitted;

In the case of an improvement of the first class where the landlord was not at the time of the consent given to the execution thereof absolute owner of the holding for his own benefit, the extent to which the improvement adds to the letting value of the holding;

The sum awarded in respect of each improvement, act, or thing; and

The sum laid out by the tenant on each improvement.

Expenses of reference.

33. The expenses of and attending the reference, including the remuneration of the referee or referees and oversman, where the oversman has been required to act, and including other proper expenses, shall be borne and paid by the parties in such proportion as to the referee or referees or oversman appears just, regard being had to the reasonableness or unreasonableness of the claim of either party in respect of amount, or otherwise, and to all the circumstances of the case.

The award may direct the payment of the whole or any part of the expenses aforesaid by the one party to the other.

The expenses aforesaid shall be subject to taxation by the auditor of the sheriff court, on the application of either party, but that taxation shall be subject to review by the sheriff.

Day for payment.

34. The award shall fix a day, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, expenses, or otherwise.

Submission not to be removable, &c.

35. A submission or award shall not be removable by any process into any court, and an award shall not be questioned otherwise than as provided by this Act.

Appeal to sheriff.

36. Where the sum claimed for compensation exceeds fifty pounds, either party may, within seven days after delivery of the award, appeal against it to the sheriff, on all or any of the following grounds:

(1.) That the award is invalid :

(2.) That compensation has been awarded for improvements, acts, or things, breaches of a lease or agreement, or for committing or permitting deterioration in respect of which the party claiming was not entitled to compensation :

(3.) That compensation has not been awarded for improvements, acts, or things, breaches of a lease or agreement, or for committing or permitting deterioration in respect of which the party claiming was entitled to compensation :

And the sheriff shall hear and determine the appeal, and may, in his discretion, remit the case to be reheard by the referee or referees or oversman, with such directions as he may think fit.

If no appeal is so brought, the award shall be final.

The decision of the sheriff on appeal shall be final, save that the sheriff shall, at the request of either party, state a special case on a question of law, for the judgment of either division of the Court of Session, and the decision of the division on the case, and respecting expenses and any other matter connected therewith, shall be final, and the sheriff shall act thereon.

Recovery of compensation.

37. Where any money agreed or awarded or ordered on appeal to be paid for compensation, expenses, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded or ordered to be paid, it shall be competent to record the agreement or award in the books of the sheriff court, to the effect of enabling execution to pass thereon in common form as upon an extract

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registered bond or decree arbitral; and any order for payment made by a sheriff on appeal shall be enforced in the same manner as a decree for payment made under his ordinary jurisdiction is enforced.

Appointment of guardian.

38. Where a landlord or tenant is a pupil or minor, or is of unsound mind, without a tutor, curator, or other guardian, the sheriff, on the application of any person interested, may appoint to him a tutor or curator for the purposes of this Act, and may change the tutor or curator if and as occasion requires.

Expenses in sheriff courts.

39. The expenses of proceedings in the sheriff court under this Act shall be in the discretion of the court.

The court of session may by act of sederunt from time to time prescribe a scale of expenses for those proceedings and of expenses to be taxed by the auditor of the sheriff court.

Service of notice, &c.

40. Any notice, request, demand, or other instrument under this Act may be served on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode in Scotland, or by sending it through the post in a registered letter addressed to him there; and if so sent by post it shall be deemed to have been served at the time when the letter containing it would be delivered in ordinary course; and in order to prove service by letter, it shall be sufficient to prove that the letter was properly addressed and posted, and that it contained the notice, request, demand, or other instrument to be served.

Charge of Tenant's Compensation.

Power for landlord on paying compensation to obtain charge.

41. A landlord, on paying to the tenant the amount of compensation due to him under this Act, may obtain from the sheriff a charge on the holding in respect thereof.

The sheriff shall have power, on proof of the payment, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this Act, to make an order charging the holding with repayment of the amount paid, or any part thereof, with such interest, and by such instalments, and with such directions for giving effect to the charge, as he thinks fit.

But where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, for the purposes of this Act, be taken to be exhausted.

The instalments and interest shall be charged in favour of the landlord, his executors or assignees.

The order charging the holding shall be duly registered in the appropriate register of sasines; and the keeper of the said register is hereby authorized and required to endorse thereon a certificate that the same has been duly registered. Until the order is duly registered as aforesaid, it shall have no effect in constituting a charge against the holding.

Advance made by a company for the improvement of land.

42. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a sheriff under the provisions of this Act upon such terms and conditions as may be agreed upon between such company and the person entitled to such charge; and such company may assign any charge so acquired by them to any person or persons whomsoever.

The assignment of any charge shall be duly registered in the appropriate register of sasines; and the keeper of the said register is hereby authorized and required to endorse thereon a certificate that the same has been duly registered. Until the assignment is duly registered as aforesaid it shall have no effect against the holding.

Duration of charge.

43. The sum charged by the order of a sheriff under this Act shall be a charge on the holding for the landlord's interest therein, and for all interests therein subsequent to that of the landlord; but so that the charge shall not extend beyond the landlord's interest where the landlord is himself a tenant of the holding.

Crown Lands.

Clause A. Application of Act to Crown lands.

This Act shall extend and apply to land belonging to Her Majesty the Queen, her heirs and successors, in right of the Crown.

With respect to such land, for the purposes of this Act, the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, or other the proper officer or body having charge of such land for the time being, or in case there is no such officer or body, then such person as Her Majesty, her heirs or successors, may appoint in writing under the Royal Sign Manual, shall represent Her Majesty, her heirs and successors, and shall be deemed to be the landlord.

Any compensation payable under this Act by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of

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them, in respect of an improvement of the first class, shall be deemed to be payable in respect of an improvement of land within section one of the Crown Lands Act, 1866, and the amount thereof shall be charged and repaid as in that section provided with respect to the costs, charges, and expenses therein mentioned.

Any compensation payable under this Act by those Commissioners, or either of them, in respect of an improvement of the second class, or of the third class, shall be deemed to be part of the expenses of the management of the Land Revenues of the Crown, and shall be payable by those Commissioners out of such money and in such manner as the last-mentioned expenses are by law payable.

Ecclesiastical and Charity Lands.

Consents in case of glebes, &c.

44. The powers by this Act conferred on a landlord shall not be exercised by ministers in respect of their glebes, except with the previous approval in writing of the Presbytery of the bounds, and shall not be exercised by trustees for ecclesiastical, educational, or charitable purposes, except with the previous approval in writing of the Lord Advocate.

Warnings to remove.

Time of warning to remove.

45. Where in any proceedings relating to the removal or ejection of a tenant under a contract of tenancy, an interval of forty days is by law necessary and sufficient between the giving of warning or notice to remove, or the execution of a summons of removing, and the term of removal (which, where there is a separate ish as regards lands and houses or otherwise, shall be held to be the ish which is first in date), a year's interval shall by virtue of this Act be necessary and sufficient for the same; but nothing in this section shall extend to a case where the tenant is sequestrated under the Bankruptcy (Scotland) Act, 1856, or where the tenant shall have executed a renunciation of his lease which shall have been accepted by the landlord.

Resumption for Improvements.

Resumption of possession for cottages, &c.

46. Where on a tenancy from year to year proceedings are taken by a landlord with a view to the use of land for any of the following purposes:

The erection of farm labourers cottages, or other houses, with or without gardens;

The providing of gardens for existing farm labourers cottages, or other houses;

The allotment for labourers of land for gardens or other purposes;
The planting of trees;
The opening or working of any coal, ironstone, limestone, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connexion therewith;
The obtaining of brick earth, gravel, or sand;
The making of a watercourse or reservoir;
The making of any road, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith;

and in the proceedings it is so stated, then it shall, by virtue of this Act, be no objection to such proceedings that they relate to part only of the holding.

In every such case the provisions of this Act respecting compensation shall apply as on determination of a tenancy in respect of an entire holding.

The tenant shall also be entitled to a proportionate reduction of rent in respect of the land comprised in the proceedings foresaid, and in respect of any depreciation of the value to him of the residue of the holding caused by the withdrawal of that land from the holding, or by the use to be made thereof; and the amount of that reduction shall be ascertained by agreement or settled by a reference under this Act as in case of compensation (but without appeal).

The tenant shall further be entitled, at any time within twenty-eight days after commencement of the proceedings foresaid, to serve on the landlord a notice in writing to the effect that he (the tenant) accepts the same as a warning to remove from the entire holding, to take effect at the expiration of the then current year of tenancy; and the warning to remove shall have effect accordingly.

Tenant's Right to remove Buildings and Fixtures.

Tenant's right to remove buildings erected with consent of landlord.

47. Where a tenant is not under this Act or otherwise entitled to compensation in respect of the erection or enlargement of buildings upon his holding, the following provisions shall have effect; that is to say, if any tenant after the commencement of this Act, with the consent in writing of the landlord for the time being, at his own expense, erects any building, either detached or otherwise (not erected in pursuance of some obligation in that behalf, or instead of some building belonging to the landlord,) then the same shall be the property of the tenant, and shall be removable by him at the determination of the tenancy, notwithstanding the same may consist of separate buildings, or that the same or any

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part thereof may be built in or permanently fixed in the soil, so as the tenant making any such removal do not in any wise injure the land or buildings belonging to the landlord, or otherwise do immediately put the same in like condition, or as good condition as the same were in before the erection of anything so removed: Provided that no tenant shall, under this section, be entitled to remove any such building without first giving to the landlord one month's previous notice in writing of his intention so to do; and thereupon at any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any building comprised in the notice of removal, and the building thus elected to be purchased shall be left by the tenant, and shall belong to the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value shall be settled by a reference under this Act, as in case of compensation (but without appeal).

Before the removal of any building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding.

Any landlord, on paying to the tenant the amount due to him under this section, may obtain from the sheriff a charge on the holding in respect thereof in manner provided for and subject to the restrictions and limitations as to payment of instalments and otherwise contained in this Act.

Tenant's property in fixtures, machinery, &c.

48. Where after the commencement of this Act a tenant affixes to his holding any engine, machinery, or other fixture for which he is not, under this Act or otherwise, entitled to compensation, and which is not so affixed in pursuance of some obligation in that behalf, or instead of some fixture belonging to the landlord, then such fixture shall be the property of, and be removable by the tenant:

Provided as follows:—

(1.) Before the removal of any fixture the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding:

(2.) In the removal of any fixture the tenant shall not do any avoidable damage to any building or other part of the holding:

(3.) Immediately after the removal of any fixture the tenant shall make good all damage occasioned to any building or other part of the holding by the removal:

(4.) The tenant shall not remove any fixture without giving one month's previous notice in writing to the landlord of the intention of the tenant to remove it:

(5.) At any time before the expiration of the notice of removal, the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture comprised in the notice of removal, and any fixture thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value may be settled by a reference under this Act as in case of compensation (but without appeal):

But nothing in this section shall apply to a steam engine erected by the tenant, if before erecting it the tenant has not given to the landlord notice in writing of his intention to do so, or if the landlord, by notice in writing given to the tenant, has objected to the erection thereof.

General Application of Act.

No restriction on contract.

49. Nothing in this Act shall prevent a landlord and tenant, or intending landlord and tenant, from entering into and carrying into effect any such agreement as they think fit, or shall interfere with the operation thereof.

Adoption of parts of Act by agreement.

50. A landlord and tenant, whether the landlord is absolute owner of the holding for his own benefit or not, may in any agreement in writing relative to the holding adopt by reference any of the provisions of this Act respecting procedure or any other matter, without adopting all the provisions of this Act; and any provision so adopted shall have effect in connexion with the agreement accordingly.

But where at the time of the making of the agreement the landlord is not absolute owner of the holding for his own benefit, no charge shall be made on the holding under this Act by virtue of the agreement greater than or different in nature or duration from the charge which might have been made thereon under this Act in the absence of the agreement.

Application of Act to future tenancies.

51. This Act shall apply to every contract of tenancy beginning after the commencement of this Act, unless in any case the landlord and tenant agree in writing, in the contract of tenancy, or otherwise, that this Act, or any part or provision of this Act, shall not apply to the contract; and in that case this Act, or the part or pro-

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vision thereof to which that agreement refers (as the case may be) shall not apply to the contract.

Application of Act to existing tenancies.

52. In any case of a contract of tenancy from year to year or at will, current at the commencement of this Act, this Act shall not apply to the contract if within two months after the commencement of this Act the landlord or the tenant gives notice in writing to the other to the effect that he (the person giving the notice) desires that the existing contract of tenancy between them shall remain unaffected by this Act; but such a notice shall be revocable by writing, and in the absence of any such notice or on revocation of every such notice this Act shall apply to the contract.

In every other case of a contract of tenancy current at the commencement of this Act this Act shall not apply to the contract.

Exception of non-agricultural and small holdings.

53. Nothing in this Act shall apply to a holding that is not either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or that is of less extent than two acres.

Exception where other compensation.

54. A tenant shall not be entitled to claim compensation under this Act and under any custom of the country or contract in respect of the same work or thing.

General saving of rights.

55. Except as in this Act expressed, nothing in this Act shall take away, abridge, or prejudicially affect any power, right, or remedy of a landlord, tenant, or other person, vested in or exerciseable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a contract of tenancy or other contract, or of any improvement, deterioration, way-going crops, fixtures, tax, rate, rent, or other thing.

Agricultural Holdings (Scotland). [H.L.]

A

BILL

INTITULED

An Act for amending the Law relating to Agricultural Holdings in Scotland.

(*Brought from the Lords* 12 *May* 1876.)

Ordered, by The House of Commons, *to be Printed*, 22 May 1876.

[Bill 159.]

Under 3 *oz.*

A

B I L L

INTITULED

An Act for remedying certain defects in the constitution of the District of All Saints, Moss, in the County and Diocese of York. A.D. 1876.

WHEREAS an Order of Her Majesty in Council, dated the twenty-sixth day of October in the year one thousand eight hundred and seventy-five, was published in the London Gazette on the twenty-ninth day of the same month, by which Order a separate district for spiritual purposes was constituted, or expressed and intended to be constituted under the statutes in the same Order mentioned, out of certain parishes or other cures within the county and diocese of York by the name of "The District of All Saints, Moss," and by the same Order certain things were ordered and directed with respect to the endowment and the patronage of the said district:

And whereas there is in the same Order a recital or averment to the effect that at the time in the same Order mentioned, namely, the twenty-ninth day of July one thousand eight hundred and seventy-five, there was not within the district or area circumscribed and set out by the metes and bounds in the same Order specified and described any consecrated church or chapel in use for the purposes of divine worship:

And whereas the said recital was contrary to fact, there being at the date last-mentioned a consecrated church within the district or area aforesaid, which church had been on or about the seventeenth day of May one thousand eight hundred and seventy-five, consecrated by the name of All Saints, with intent that it should become and be the church of and for a district which should be legally constituted or assigned, and should be comprised within limits identical with those of the district which was actually constituted or expressed and intended so to be as aforesaid:

And whereas in the case of an Order of Her Majesty in Council such as that herein-before mentioned it is statutably necessary

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either that such a recital as that in the said Order contained as aforesaid should be true in fact, or that otherwise certain things should be done by the Order which in the case of the said Order were not done; and under these circumstances it has become necessary or expedient that the validity of the said Order should be ascertained and confirmed by Act of Parliament:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Order in Council to be valid.

1. The said Order of Her Majesty in Council, dated the twenty-sixth day of October in the year one thousand eight hundred and seventy-five, and purporting to constitute the District of All Saints, Moss, as aforesaid, shall as to everything contained in it be valid and effectual in law as from the day on which the same Order was published in the London Gazette as aforesaid; and everything which has been done by any body or person under or in pursuance of or upon the faith of the said Order shall, so far as the authority of the same Order is concerned, also be valid and effectual in law.

Ecclesiastical Commissioners may approve the church.

2. It shall be lawful for the Ecclesiastical Commissioners for England, if they shall think fit, at any time after the passing of this Act, to approve formally the consecrated church which as aforesaid is within the limits of the District of All Saints, Moss, to the intent that under the statute in this behalf provided that church may become the church of the same district, for the use and service of the minister and inhabitants thereof, and immediately upon such approval the same church shall become and be the church of the district of All Saints, Moss, accordingly, and the district of All Saints, Moss, shall thereupon become and be a new parish for ecclesiastical purposes.

All Saints, Moss. [H.L.]

A

BILL

INTITULED

An Act for remedying certain defects in the constitution of the District of All Saints, Moss, in the County and Diocese of York.

(*Brought from the Lords* 12 *May* 1876.)

Ordered, by The House of Commons, *to be Printed*, 26 *May* 1876.

[Bill 172.]

Under 1 *oz.*

Ancient Monuments Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Definitions.
2. Appointment of Commissioners.
3. Mode of applying Act to certain monuments.
4. Notice to be given to Commissioners of intended injury to a monument, to which this Act has been applied.
5. Owners, &c. may require Commissioners either to consent to injury, or to acquire power of restraint.
6. Appeal from Commissioners in certain cases.
7. Acquisition of monuments or of power of restraint by agreement with persons interested.
8. Penalty on persons unlawfully destroying or injuring a monument.
9. Access of Commissioners to monuments.
10. Proceedings for ascertaining and paying compensation.
11. Treasury may authorise expenses.
12. Expenses of the Commission.
13. Reports on monuments.
14. Service of notices.
15. Provision for defining the site of a monument.
16. Transfer of a monument to a local authority.
17. Provision as to public works.
18. Saving of informalities.
19. Monuments not to be rated when vested in Commissioners.
20. Saving of the Duchy of Cornwall.
21. Short title.

SCHEDULES.

A

B I L L

TO

Provide for the Protection of Ancient Monuments.

WHEREAS it is expedient to make provision for the preservation of certain ancient national monuments : A.D. 1876.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Definitions.

1. In this Act, unless where the context otherwise requires, the following expressions shall respectively be construed as follows, viz.:

"The Commissioners" means the Commissioners acting under the provisions of this Act :

"The Treasury" means the Commissioners of Her Majesty's Treasury, or any one or more or them :

"Monument" includes the site of a monument and any part of a monument or of the site thereof.

"Injure" and "Injury" include the destroying, removing, defacing, altering, covering up, building on, undermining, or in any manner permanently or temporarily damaging or endangering the safety or stability of a monument or any part thereof, or any marks thereon ;

"Person" includes a corporation.

Appointment of Commissioners.

2. There shall be a Commission for the purposes of this Act.

The Commissioners shall be the Inclosure Commissioners for England and Wales, to whom shall be added for the purposes of this Act,—

1. The persons for the time being holding the several offices of Master of the Rolls in England, the President of the Society of Antiquaries of London, the President of the Society of Antiquaries of Scotland, the President of the Royal Irish Academy, the Keeper of the British Antiquities at the British

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Museum, or of such of the said offices as are not for the time being in abeyance or abolished, and

2. *Seven* nominated Commissioners. The Most Noble the Duke of Devonshire, the Most Noble the Duke of Argyll, the Right Honourable Lord Talbot de Malahide, Sir William Robert Wilde, Knight, Augustus Lane Fox, Esquire, John Evans, Esquire, of Nash Mills, Hemel Hempstead, and John Stuart, Esquire, of the General Register House, Edinburgh, shall be the first nominated Commissioners for the purposes of this Act. In case any of the nominated Commissioners dies, resigns, or declines to act, or becomes incapable of acting, it shall be lawful for Her Majesty, from time to time, under her sign manual, to appoint another person to be a Commissioner in his room.

The Commissioners shall be a corporation under the style of the "National Monuments Commission," with perpetual succession and a common seal, and with capacity to take and hold lands for the purposes of this Act without license in mortmain.

Four of the Commissioners shall be a quorum, and, subject to any regulations which the Commissioners may make, the Commissioners may exercise any of their powers under this Act, either when assembled or without meeting, by writing under their hands or under the hands of any four or more of them.

Mode of applying Act to certain monuments.

3. The following provisions shall have effect with respect to the application of this Act to monuments; (viz.)

1. This Act shall be applied by the Commissioners to the several monuments specified in the first schedule to this Act:
2. This Act may, subject to appeal in the manner herein-after in this Act provided, be applied by the Commissioners to any British, Celtic, Roman, or Saxon remains, or to any monument which is in the opinion of the Commissioners of the like kind as any of the monuments specified in the said first schedule, and which is not situate in any park, garden, or pleasure ground:
3. This Act shall be applied in the case of any monument as aforesaid by serving a notice, according to the form prescribed in the second schedule to this Act, viz.,
    1. The occupier or occupiers of the site of the monument:
    2. The person or persons (if any) to whom rent is paid by the occupier or occupiers of the site in respect of his or their occupation; and

3. The clerk or clerks of the peace, or sheriff clerk or clerks for the county or counties in which the monument or any part thereof is situate.

Notices to be given to Commissioners of intended injury to a monument to which this Act has been applied.

4. When this Act has been applied to a monument it shall not be lawful for any person to injure or to permit injury to the monument unless with the consent of the Commissioners, or upon default made by them in acquiring, upon requisition made in the manner herein-after in this Act mentioned, the monument or a power to restrain the exercise of ownership so far as relates to so injuring or permitting injury to the monument (which power is herein-after in this Act referred to as a "power of restraint"). If any person who, but for this prohibition, might lawfully have injured or permitted the injury of a monument or part of a monument acts in contravention of this prohibition, a power of restraint in respect of the monument or part for the purposes of this Act shall upon such injury being begun, or permission to do it being given, vest in the Commissioners for so long as the estate, interest, or occupation of such person continues.

Owners, &c. may require Commissioners either to consent to injury, or to acquire power of restraint.

5. A person who but for this Act might lawfully deal with a monument or part of a monument to which this Act has been applied, by injuring or permitting injury to it, may at any time serve on the Commissioners a requisition in the form contained in the second schedule to this Act, or in such form as may be prescribed by the Commissioners, stating that he proposes to deal with the monument in a manner described in the requisition, and requiring them either to consent to his so dealing with it, or to purchase the monument, or (as the case may be) such part thereof, or a power of restraint in respect of it, for the purposes of this Act; and thereupon the Commissioners shall within *three months* from the receipt of the requisition either give him the required consent, or agree to purchase the monument (or part), or such power according to his requisition.

An agreement by the Commissioners to purchase a monument or part of a monument, or a power of restraint in respect thereof, shall be signified in writing accompanied by a certificate of the Inclosure Commissioners that provision has been made to their satisfaction either by the deposit of moneys or by way of security, or partly in one of such ways and partly in the other, for the payment of the purchase money or compensation which may become payable by the Commissioners, and of the costs and expenses which

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may be incurred in ascertaining the same, or otherwise in relation thereto.

If the person making the requisition is or acts with the consent of a person entitled in possession in fee simple, or in tail, or as heir of entail in possession, or for life or for a life or lives, or for a term of years, of which not less than fifty are unexpired, it shall be at his election to require the Commissioners, upon proof of his title, to acquire either the monument (or part) or a power of restraint in respect of it, but in any other case he shall not be entitled to require the Commissioners to acquire, nor shall they under the provisions of this section acquire the monument (or part), but only a power of restraint in respect of it for the term of the person's estate, interest or occupation.

In case the Commissioners do not within *three months* from the receipt of the requisition signify that they agree to purchase the monument (or part) or power of restraint, as the case may be, they shall be deemed to have given their consent to the monument being dealt with in the proposed manner.

Appeal from Commissioners in certain cases.

6. Any person who is aggrieved by the application of this Act to a monument, or by a refusal by the Commissioners to consent to a proposed injury to a monument, may at any time within *two months* from such application or refusal, appeal to the court as herein-after in this section defined; and the court may hear and finally determine the appeal in a summary way, and may confirm, annul, or vary the acts or determinations of the Commissioners, with or without any conditions, and upon such terms as to costs and otherwise, as the court thinks just.

An appeal shall be commenced by serving on the Commissioners a notice of appeal, together with a summons, citation, or other process of the court, requiring the Commissioners to appear by themselves or their agents at a time and place specified in the summons, citation, or process. The notice of appeal shall state the matter by which the appellant is aggrieved, and the substance of the order which he desires the court to make.

The court may adjourn the hearing of an appeal from time to time at its discretion, and may, if it thinks fit, in case either of the parties fails to appear at the time and place appointed for the hearing, proceed and finally determine the matter of the appeal ex parte.

The court, for the purposes of this section, shall be as follows; viz.,—

(1). In the case of a monument situate in England, one of the superior courts of law or equity in England, or a judge thereof:

(2.) In the case of a monument situate in Scotland, the Court of Session or a judge thereof:

(3.) In the case of a monument situate in Ireland, one of the superior courts of law or equity in Ireland, or a judge thereof.

A judge of a superior court of law or equity in England or Ireland, or a judge of the Court of Session in Scotland, may act for all the purposes of this section either in chambers or on circuit, or at such place and time, whether in term or in vacation, as he may appoint.

Acquisition of monuments or of powers of restraint, by agreement with persons interested.

7. The Commissioners at any time may acquire, by agreement with the persons entitled or interested,

1. A freehold or other estate in any monument of whatsoever kind and wheresoever situate or in its site; and
2. Such rights of way as may be necessary for the access of the public to any such monument; and
3. Powers of restraint in respect of any such monument;

Or any of such estates, rights, or powers:

And they may also accept a conveyance, appointment, settlement, or devise of any monument with its site, or of any right of way to or powers of restraint over any monument, or of moneys for the purchase of any monument, and such a conveyance, appointment, settlement, or devise shall not be deemed to be made to or for a charitable use within the meaning of the Acts relating to charitable uses.

Moreover this Act may be applied by the Commissioners to a monument of whatsoever kind and wheresoever situate, if the following persons give their consent to its application; viz.,

(*a.*) The occupier or occupiers of the site of the monument; and

(*b.*) Every person entitled to any beneficial interest in possession in the site of the monument, if of full age and otherwise competent to give consent, or if any such person is an infant or otherwise incompetent to give consent, the guardian, committee, or trustee of such person.

For the purposes of this section the word "site" shall include any area surrounded by any parts of a monument, and any land adjoining the monument.

Penalty on persons unlawfully

8. Where a monument or a power of restraint in respect of it is vested in the Commissioners, if any person (whether or not he

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destroying or injuring a monument.

has any estate or interest in the site thereof) unlawfully and wilfully, without the consent of the Commissioners in writing, injures the monument or injures or removes any fence by which it is protected, or any notice lawfully affixed on or near the monument by or with the consent of the Commissioners, he shall be guilty of an offence against this Act and shall, on conviction thereof, as well in Scotland as in other parts of the United Kingdom, be subject to the penalties and liabilities provided by the fifty-second section of the Act of the twenty-fourth and twenty-fifth of Her Majesty, chapter ninety-seven, with respect to malicious injuries: Provided that in Scotland any such offence shall not be cognisable by one justice of the peace, but may be prosecuted before a sheriff, or two justices of the peace, sitting as judges in a justice of the peace court, under the provisions of the Summary Procedure Act, 1864.

Access of Commissioners to monuments.

9. When a power of restraint in respect of a monument is vested in the Commissioners by agreement or purchase, or under any conveyance, appointment, settlement, or devise, they or any of them, or any person authorised in writing by any of them, may, at any time between sunrise and sunset, enter upon and inspect the monument and all parts thereof, and may, in case of necessity, break open any doors or enclosure preventing their or his access thereto without being liable to any action or prosecution for trespass or otherwise.

Proceedings for ascertaining and paying compensation.

10. For the purpose of ascertaining and paying compensation in respect of the acquisition by the Commissioners of a monument or of powers of restraint over a monument the following provisions of the Defence Act, 1860, viz., sections seven to eighteen, twenty to twenty-nine, thirty-six to thirty-nine, forty-three, forty-four, and forty-seven (all inclusive) shall apply, mutatis mutandis, throughout the United Kingdom with the modifications herein-after in this section mentioned.

The said parts of the said Act shall in their application for the purposes of this Act be construed with the following modifications; viz.,—

1. Expressions referring to a Secretary of State shall be construed to refer to the Commissioners:
2. Expressions referring to restraints on rights of building or other rights of ownership shall be construed to refer to powers of restraint within the meaning of this Act:
3. For the declaration and map or plan to be made, deposited, or affixed under the provisions of the said Act there shall be substituted a plan showing the bounds or limits of the site

of the monument and rights of way (if any) to which the proceedings relate, to be served with the notices on the respective owners, lessees, occupiers, or other persons:

4. In the said Act in its application to Scotland, "feoffee" shall mean a disponee infeft; "tenant in tail" shall mean heir of entail in possession; "feme covert" shall mean a married woman; "committee" shall mean and include a tutor dative, a curator bonis, and a judicial factor; "mesne profits" shall mean interim profits; "misdemeanor" shall mean a crime and offence; "The Lands Clauses Consolidation Act, 1845," shall mean the Lands Clauses Consolidation (Scotland) Act, 1845; and words referring to any court and the officers thereof shall mean the Court of Session and the principal Clerks of Session.

Upon payment by the Commissioners of the purchase money or compensation payable in respect of any monument or part of a monument, or in respect of a power of restraint, such monument or part, or such power (as the case may be), shall vest in them absolutely as against all persons whatsoever, without any conveyance or deed.

Treasury may authorise expenses.

11. The Commissioners may employ such persons and incur such expenses for the purposes of this Act as the Treasury may allow.

Expenses of the Commission.

12. *All expenses incurred by the Commissioners for the purposes and in pursuance of the provisions of this Act shall be paid by the Treasury out of moneys to be provided by Parliament for this purpose.*

Reports on monuments.

13. The Commissioners shall report annually to Parliament as to the condition of the monuments vested in them or in respect of which they have powers of restraint.

Service of notices.

14. Notices to be served by the Commissioners shall be served in the manner prescribed by the Defence Act, 1860, for the service of notices by a Secretary of State. Notices or requisitions to be served on the Commissioners shall be served by letter addressed to the Inclosure Commissioners in London, and registered according to the regulations for the time being in force for the registration of letters at post offices in the United Kingdom. Any justice of the peace having jurisdiction at a place where any part of a monument is situate, upon being satisfied that all reasonable endeavours have been made to serve any notice which is to be served under the provisions of this Act, and that the person on whom it is required to be served cannot be found, or is absent from the United Kingdom, or that for any other reason the notice cannot be served

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upon him, may, by order under his hand, direct the notice to be served on such person as the justice may direct; and any notice served in the manner directed by such justice shall be deemed to have been served on the person on whom it is required by this Act to be served.

Provision for defining the site of a monument.

15. The Commissioners may in the notice by which this Act is applied to a monument define the site thereof for the purposes of this Act, and the site as so defined shall be deemed to be the site of the monument; but it shall not be lawful for the Commissioners, by virtue of this section, to include in the site of a monument any land which is not within *fifty yards* of some part of the monument, except with the written consent of the person or persons whose consent is by the seventh section of this Act required to the application of the Act to a monument of whatsoever kind and wheresoever situated.

Transfer of a monument to a local authority.

16. The Commissioners may from time to time if they think fit, and upon such terms as they think fit, transfer any monument which is vested in them, or any power of restraint which is vested in them, to any local authority of a borough, burgh, district, or place in or near which the monument is situate; and thereupon such local authority shall in respect of the monument or power transferred to them, and subject to any terms or conditions of the transfer, be substituted for and have all the powers and duties of the Commissioners under this Act; and the provisions of this Act with respect to offences against this Act shall have effect as if the local authority were mentioned in this Act instead of the Commissioners.

A transfer under the provisions of this section shall be made in such form as the Commissioners may from time to time determine, and it may provide for the re-vesting of the monument or power in the Commissioners upon the happening of any event or upon any default being made by the local authority.

For the purposes of this section "local authority" includes a town council, local board, trustees, commissioners, or other corporation or body of persons having powers under any general or special Act to levy any rate or assessment for improving, cleansing, or paving any borough, burgh, district, or place.

Provision as to public works.

17. When any corporation, commissioners, trustees, board, authority, or persons in the execution of any authority or power vested in or to be executed by them for the public benefit, whether by virtue of any general provisions of an Act of Parliament, or of a charter, or of prescription or otherwise, propose to injure a monument to which this Act has been applied or a power of restraint in

respect of which is vested in the Commissioners, they shall, *three months* at least before so doing, serve a notice in writing on the Commissioners specifying the nature of the proposed injury; and it shall be lawful in the case of a monument situate in England or Scotland for one of Her Majesty's Principal Secretaries of State, and in Ireland for the Lord Lieutenant, upon application by the Commissioners, to inquire concerning the nature and necessity of the proposed injury, and at his discretion, by order in writing under his hand, to prohibit the injury, either altogether or as to any part of the monument; and if any person, in a case to which this section applies, injures or directs injury to be done to a monument without having given such notice, or in contravention of such prohibition, the injury shall, for the purposes of this Act as to penalties and as to repayment of expenses of repairing the monument, be deemed to have been unlawfully done by such person.

Saving of informalities.

18. No proceeding of the Commissioners shall be invalidated by any vacancy or vacancies in the Commission, or by any error, omission, or informality in their appointment, or in affixing their seal, or in the mode of holding a meeting, or transacting business thereat, or by any misdescription or omission, in any notice, form, or document, or in the first schedule to this Act, of the county, parish, barony, or place in which a monument or any part thereof is situate, or in the name or description of any monument or by any error or informality which in the opinion of the court before whom the proceeding is in question was not material for the matter in reference to which it is questioned.

The Commissioners may at their discretion substitute for the form of requisition contained in the second schedule to this Act such other form as they may think fit.

Monuments not to be rated when vested in Commissioners.

19. The Commissioners shall not be liable to be rated or assessed to, or to pay any rate or assessment in respect of any monument or right vested in them.

Saving of Duchy of Cornwall.

20. This Act shall not be applied to any monument situate on land held in right of the Duchy of Cornwall, without the consent of the Duke of Cornwall for the time being.

Short title.

21. This Act may be cited for all purposes as the "National Monuments Preservation Act, 1875."

A D. 1876.

SCHEDULES.

SCHEDULE I.

ENGLAND AND WALES.

—	County.	Parish.	
The tumulus and dolmen, Plas Newydd, Anglesea.	*Anglesea*	*Llandedwen.*	5
The tumulus known as Wayland Smith's Forge.	*Berkshire*	*Ashbury.*	
Uffington Castle	„	*Uffington.*	
The stone circle known as Long Meg and her Daughters, near Penrith.	*Cumberland*	*Addingham.*	10
The stone circle on Castle Rigg, near Keswick.	„	*Crosthwaite.*	
The stone circles on Burn Moor	„	*St. Bees.*	
The stone circle known as The Nine Ladies, Stanton Moor.	*Derbyshire*	*Bakewell.*	15
The tumulus known as Arborlow	„	„	
Hob Hurst's House and Hut, Bastow Moor.	„	„	
Minning Low	„	*Brassington.*	20
Arthur's Quoit, Gower	*Glamorganshire*	*Llanridian.*	
The tumulus at Uley	*Gloucestershire*	*Uley.*	
Kits Coty House	*Kent*	*Aylesford.*	
Danes Camp	*Northamptonshire*	*Hardingstone.*	
Castle Dykes	„	*Farthingston.*	25
The Rollrich Stones	*Oxfordshire*	*Little Rollright.*	
The ancient stones at Stanton Drew	*Somersetshire*	*Stanton Drew.*	
The chambered tumulus at Stoney Littleton, Wellow.	„	*Wellow.*	
Cadbury Castle	„	*South Cadbury.*	30
Cæsar's Camp	*Surrey*	*Wimbledon.*	
Mayborough, near Penrith	*Westmoreland*	*Barton.*	
Arthur's Round Table, Penrith	„	„	
The group of stones known as Stonehenge	*Wiltshire*	*Amesbury.*	
The vallum at Abury, the Sarcen stones within the same, those along the Kennet Road, and the group between Abury and Beckhampton.	„	*Abury.*	35
The long barrow at West Kennet, near Marlborough.	„	*West Kennet.*	40
Silbury Hill	„	*Abury.*	
The dolmen (Devil's Den), near Marlborough.	„	*Fyfield.*	
Barbury Castle	„	*Ogbourne, St. Andrews, and Swindon.*	45

SCOTLAND.

	County.	Parish.
The Bass of Inverury	*Aberdeenshire*	*Inverurie.*
The vitrified fort on the Hill of Noath	„	*Rhynie.*
The pillar and stone at Newton-in-the-Garioch.	„	*Culsalmond.*
The circular walled structures called "Edin's Hall," on Cockburn Law.	*Berwickshire*	*Dunse.*
The British walled settlement enclosing huts at Harefaulds in Lauderdale.	„	*Lauder.*
The Dun of Dornadilla	*Sutherlandshire*	*Durness.*
The sculptured stone called Suenos Stone, near Forres.	*Elgin*	*Rafford.*
The cross slab, with inscription, in the churchyard of St. Vigeans.	*Forfarshire*	*St. Vigeans.*
The British forts, on the hills, called "The Black and White Catherthuns."	„	*Menmuir.*
A group of remains and pillars, on a haugh at Clava on the banks of the Nairn.	*Inverness*	*Croy and Dalcross.*
The Pictish Towers at Glenelg	„	*Glenelg.*
The Cairns, with chambers and galleries partially dilapidated.	*Kirkcudbrightshire*	*Minnigaff.*
The Catstane, an inscribed pillar	*Linlithgow*	*Kirkliston.*
The Ring of Brogar and other stone pillars at Stennis in Orkney, and the neighbouring pillars.	*Orkney*	*Firth and Stennis.*
The Chambered mound of Maeshowe	„	„
The stones of Callernish	*Ross*	*Uig.*
The Burgh of Clickanim	*Shetland*	*Sound.*
The Pictish tower at Mousa in Shetland	„	*Dunrossness.*
The inscribed slab standing on the roadside leading from Wigton to Whithorn and about a mile from Whithorn.	*Wigtonshire*	*Whithorn.*
Two stones, with incised crosses, on a mound in a field at Laggangairn.	„	*New Luce.*
The pillars at Kirkmadrine	„	*Stoneykirk.*

IRELAND.

	County.	Parish.	Barony.
The remains of Rathmore of Moylinny.	*Antrim* -	*Donegore* -	*Upper Antrim.*
The earthen enclosure and mounds called the Navan Fort, Creveroe, and The King's Stables.	*Armagh* -	*Eglish* -	*Armagh.*
Stone monuments and groups of sepulchral cists in Glen Maulin.	*Donegal* -	*Glencolumbkille*	*Banagh.*
The earthen inclosure and Cromlech called the Giant's Ring near Ballylessan.	*Down* -	*Drumbo* -	*Upper Castlereagh.*
The earthen fort at Downpatrick (Dunkeltair).	„ -	*Downpatrick*	*Lecale.*
The earthen fort near Moira.	„ -	*Moira* -	*Lower Iveagh.*
Stone structures called Dun Augus, Dun Onaght, Dun Eochail, Dubh Cahir, and other similar remains.	*Galway* -	*Inismore* -	*Aran.*
Stone structure called Dun Conor -	„ -	*Inismaan* -	„
Stone structure called Staigue Fort	*Kerry* -	*Kilcrogham* -	*Dunkerron.*
The earthen mound at Castletown (Dun Dealga).	*Louth* -	*Castletown* -	*Upper Dundalk.*
The earthen mound at Greenmount	„ -	*Kilsaran* -	*Ardee.*
The stone monument at Ballyna -	*Mayo* -	*Kilmoremoy* -	*Tyrawly.*
Cairns and stone circles at Moytura	„ -	*Cong* -	*Kilmaine.*
The tumuli, New Grange, Knowth and Dowth.	*Meath* -	*Monknewton and Dowth.*	*Upper Slane.*
The earthworks on the Hill of Tara	„ -	*Tara* -	*Skreen.*
The earthworks at Teltown (Taltin)	„ -	*Teltown* -	*Upper Kells.*
The earthworks at Wardstown (Tlaghta).	„ -	*Athboy* -	*Lune.*
The tumuli on the hills called Slieve Na Calliagh.	*Meath* -	*Loughcrew* -	*Fore.*
The Cairn at Heapstown - -	*Sligo* -	*Kilmacallan* -	*Tirerrill.*
Sepulchral remains at Carrowmore. The cairn called Miscaun Mave, or Knocknarea.	„ -	*Kilmacowen* -	*Curbury.*
The cave containing Ogham inscribed stones at Drumloghan.	*Waterford*	*Stradbally* -	*Decies without Drum.*
The stone monument called the Catstone and cemetery on the hill of Usnagh.	*Westmeath*	*Killare* -	*Rathconrath.*

SCHEDULE II.

Form of Notice of Application of the Act to a monument.

To *A.B.* of

in pursuance of the National Monuments Preservation Act, 1874, we, the Commissioners under the said Act, hereby give notice that the said Act is applied to the Monument commonly known as the ; and that any person who destroys, removes, defaces, alters, covers up, builds on, undermines, or in any manner permanently or temporarily damages or endangers the safety or stability of the said monument or any part thereof, or any marks thereon, without our previous consent in writing, will be liable to the penalties of the said Act.

Application for our consent for any of the above purposes must be made to us by registered letter, addressed to the Inclosure Commissioners, London, and must be in the form of the annexed requisition.

The following is the description of the said monument and of its site. [*Here insert the description.*]

(Seal of the Commission.)

Dated the day of

Form of Requisition.

To the Inclosure Commissioners, London.

Requisition under the provisions of the "National Monuments Preservation Act, 1874."

1. Name and situation of monument [*here state the same, and whether the requisition relates to the whole or part of the monument*].

2. Name and address of the person making the requisition [*here state the same*].

3. By what right the person making the requisition claims to be entitled to deal with or injure the monument [*here state the nature of the right claimed, e.g.* as occupier under a lease from *A.B.* dated ; *or* as owner, *&c.*]

4. Nature of the proposed injury, or proposed manner of dealing with the monument [*here state particulars of what is proposed to be done*].

5. I hereby require the National Monuments Commissioners to consent to my dealing with the monument above described, in the manner above described, or else to purchase a power of restraint in respect of the monument [*or, as the case may be,* to purchase the monument].

Signed *C.D.*,

The day of

A

BILL

To provide for the Protection of Ancient Monuments.

(*Prepared and brought in by Sir John Lubbock, Mr. Beresford Hope, Mr. Russell Gurney, and Mr. Osborne Morgan.*)

Ordered, by The House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 21.]

Under 2 *oz.*

Appellate Jurisdiction Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

1. Short title.
2. Commencement of Act.

Appeal.

3. Cases in which appeal lies to House of Lords.
4. Form of appeal to House of Lords.
5. Attendance of certain number of Lords of Appeal required at hearing and determination of appeals.
6. Appointment of Lords of Appeal in Ordinary by Her Majesty.

Supplemental Provisions.

CLAUSE A.—Salary and pension of Lord of Appeal in Ordinary.
7. Hearing and determination of appeals during prorogation.
8. Hearing and determination of appeals during dissolution.
9. Saving as to fiat of Attorney General.
10. Procedure under Act to supersede all other procedure.
11. Certain cases excluded from appeal.
12. Provision as to pending business.

Amendment of Acts.

13. Amendment of the Act of 34 & 35 Vict. c. 91. relating to the constitution of the Privy Council.
14. Amendment of the Supreme Court of Judicature Act, 1875, in relation to the constitution of Her Majesty's Court of Appeal.
15. Amendment of Judicature Acts as to appeals from High Court of Justice in certain cases.

Repeal and Definitions.

16. Repeal of certain sections of the Church Discipline Act and of the Supreme Court of Judicature Acts.
17. Definitions.

A

B I L L

INTITULED

An Act for amending the Law in respect of the Appellate Jurisdiction of the House of Lords, and for other purposes. A.D. 1876.

[Note.—*The words and clause printed in red ink are proposed to be inserted in Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited for all purposes as "The Appellate Jurisdiction Act, 1876."

Commencement of Act.

2. This Act shall, except where it is otherwise expressly provided, come into operation on the first day of November one thousand eight hundred and seventy-six, which day is herein-after referred to as the commencement of this Act.

Appeal.

Cases in which appeal lies to House of Lords.

3. Subject as in this Act mentioned an appeal shall lie to the House of Lords from any order or judgment of any of the courts following; that is to say,

(1.) Of Her Majesty's Court of Appeal in England; and

(2.) Of any Court in Scotland from which error or an appeal at or immediately before the commencement of this Act lay to the House of Lords by common law or by statute; and

(3.) Of any Court in Ireland from which error or an appeal at or immediately before the commencement of this Act lay to the House of Lords by common law or by statute.

Form of appeal to House of Lords.

4. Every appeal shall be brought by way of petition to the House of Lords, praying that the matter of the order or judgment appealed against may be reviewed before Her Majesty the Queen in her Court of Parliament, in order that the said Court may determine what of right, and according to the law and custom of this realm, ought to be done in the subject matter of such appeal.

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Attendance of certain number of Lords of Appeal required at hearing and determination of appeals.

5. An appeal shall not be heard and determined by the House of Lords unless there are present at such hearing and determination not less than three of the following persons in this Act designated Lords of Appeal; that is to say,

(1.) The Lord Chancellor for the time being; and

(2.) The Lords of Appeal in ordinary to be appointed as in this Act mentioned; and

(3.) Such Peers of Parliament as are for the time being holding or have held any of the offices in this Act described as high judicial offices.

Appointment of Lords of Appeal in Ordinary by Her Majesty.

6. For the purpose of aiding the House of Lords in the hearing and determination of appeals, Her Majesty may, at any time after the passing of this Act, by letters patent appoint two qualified persons to be Lords of Appeal in Ordinary, but such appointment shall not take effect until the commencement of this Act.

A person shall not be qualified to be appointed by Her Majesty a Lord of Appeal in Ordinary unless he has been at or before the time of his appointment the holder for a period of not less than two years of some one or more of the offices in this Act described as high judicial offices, or has been at or before such time as aforesaid, for not less than fifteen years, a practising barrister in England or Ireland, or a practising advocate in Scotland.

Every Lord of Appeal in Ordinary shall hold his office during good behaviour, and shall continue to hold the same notwithstanding the demise of the Crown, but he may be removed from such office on the address of both Houses of Parliament.

There shall be paid to every Lord of Appeal in Ordinary a salary of six thousand pounds a year.

Every Lord of Appeal in Ordinary, unless he is otherwise entitled to sit as a member of the House of Lords, shall by virtue and according to the date of his appointment be entitled during his life to rank as a Baron by such style as Her Majesty may be pleased to appoint, and shall during the time that he continues in his office as a Lord of Appeal in Ordinary, and no longer, be entitled to a writ of summons to attend, and to sit and vote in the House of Lords; his dignity as a Lord of Parliament shall not descend to his heirs.

On any Lord of Appeal in Ordinary vacating his office, by death, resignation, or otherwise, Her Majesty may fill up the vacancy by the appointment of another qualified person.

A Lord of Appeal in ordinary shall, if a Privy Councillor, be a member of the Judicial Committee of the Privy Council, and,

subject to the due performance by a Lord of Appeal in Ordinary of his duties as to the hearing and determining of appeals in the House of Lords, it shall be his duty, being a Privy Councillor, to sit and act as a member of the Judicial Committee of the Privy Council. A.D. 1876.

Supplemental Provisions.

Clause A. Salary and pension of Lord of Appeal in Ordinary.

Her Majesty may by letters patent grant to any Lord of Appeal in Ordinary, who has served for fifteen years, or is disabled by permanent infirmity from the performance of the duties of his office, a pension by way of annuity to be continued during his life, equal in amount to the pension which might under similar circumstances be granted to the Master of the Rolls, in pursuance of the Supreme Court of Judicature Act, 1873.

Previous service in any office described in this Act as a high judicial office shall for the purposes of pension be deemed equivalent to service in the office of a Lord of Appeal in Ordinary under this Act.

The salary and pension payable to a Lord of Appeal in Ordinary shall be charged on and paid out of the Consolidated Fund of the United Kingdom, and shall accrue due from day to day, and shall be payable to the person entitled thereto, or to his executors and administrators, at such intervals in every year, not being longer than three months, as the Treasury may from time to time determine.

Hearing and determination of appeals during prorogation.

7. For preventing delay in the administration of justice, the House of Lords may sit and act for the purpose of hearing and determining appeals, during any prorogation of Parliament, at such time and in such manner as may be appointed by order of the House of Lords made during the preceding session of Parliament; and all orders and proceedings of the said House in relation to appeals and matters connected therewith during such prorogation, shall be as valid as if Parliament had been then sitting, but no business other than the hearing and determination of appeals and the matters connected therewith, shall be transacted by such House during such prorogation.

Hearing and determination of appeals during dissolution.

8. If on the occasion of a dissolution of Parliament Her Majesty is graciously pleased to think that it would be expedient, with a view to prevent delay in the administration of justice, to provide for the hearing and determination of appeals during such dissolution, it shall be lawful for Her Majesty, by writing under her Sign Manual, to authorise the Lords of Appeal to hear and determine appeals during the dissolution of Parliament, and for that purpose to sit in the House of Lords at such times as may be thought expedient

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and upon such authority as aforesaid being given by Her Majesty, the Lords of Appeal may, during such dissolution, hear and determine appeals and act in all matters in relation thereto in the same manner in all respects as if they were a continuation of the House of Lords, and may in the name of the House of Lords exercise the jurisdiction of the House of Lords accordingly.

Saving as to fiat of Attorney General.

9. An appeal shall not be entertained by the House of Lords without the consent of the Attorney General or other law officer of the Crown in any case where proceedings in error or on appeal could not hitherto have been had in the House of Lords without the fiat or consent of such officer.

Procedure under Act to supersede all other procedure.

10. After the commencement of this Act error shall not lie to the House of Lords, and an appeal shall not lie from any of the courts from which an appeal to the House of Lords is given by this Act, except in manner provided by this Act, and subject to such conditions as to the value of the subject matter in dispute, and as to giving security for costs or otherwise, as may be imposed by orders of the House of Lords.

Certain cases excluded from appeal.

11. Except in so far as may be authorised by orders of the House of Lords an appeal shall not lie to the House of Lords from any court in Scotland or Ireland in any case, which according to the law or practice hitherto in use, could not have been reviewed by that house, either in error or on appeal.

Provision as to pending business.

12. Nothing in this Act contained shall affect the jurisdiction of the House of Lords in respect of any error or appeal pending therein at the time of the commencement of this Act, and any such error or appeal may be heard and determined, and all proceedings in relation thereto may be conducted in the same manner in all respects as if this Act had not passed.

Amendment of Acts.

Amendment of the Act of 34 & 35 Vict. c. 91. relating to the constitution of the Privy Council.

13. Whereas by the Act of the Session of the thirty-fourth and thirty-fifth years of the reign of Her present Majesty, chapter ninety-one, intituled "An Act to make further provision for the "despatch of business by the Judicial Committee of the Privy "Council," Her Majesty was empowered to appoint and did appoint four persons qualified as in that Act mentioned to act as members of the Judicial Committee of the Privy Council at such salaries as are in the said Act mentioned, in this Act referred to as paid judges of the Judicial Committee of the Privy Council:

A.D. 1876.

And whereas the power given by the said Act of filling any vacancies occasioned by death, or otherwise, in the offices of the persons so appointed, has lapsed by efflux of time, and Her Majesty has no power to fill any such vacancies:

Be it enacted, that whenever any two of the paid judges of the Judicial Committee of the Privy Council have died or resigned, Her Majesty may appoint a third Lord of Appeal in Ordinary in addition to the Lords of Appeal in Ordinary herein-before authorised to be appointed, and on the death or resignation of the remaining two paid judges of the Judicial Committee of the Privy Council Her Majesty may appoint a fourth Lord of Appeal in Ordinary in addition to the Lords of Appeal in Ordinary aforesaid; and may from time to time fill up any vacancies occurring in the offices of such third and fourth Lord of Appeal in Ordinary.

Any Lord of Appeal in Ordinary appointed in pursuance of this section shall be appointed in the same manner, hold his office by the same tenure, be entitled to the same salary and pension, and in all respects be in the same position as if he were a Lord of Appeal in Ordinary appointed in pursuance of the power in this Act before given to Her Majesty.

Her Majesty may by Order in Council, with the advice of the Judicial Committee of Her Majesty's Privy Council or any five of them, of whom the Lord Chancellor shall be one, and of the archbishops and bishops being members of Her Majesty's Privy Council, or any two of them, make rules for the attendance, on the hearing of ecclesiastical cases as assessors of the said committee of such number of the archbishops and bishops of the Church of England as may be determined by such rules.

The rules may provide for the assessors being appointed for one or more year or years, or by rotation or otherwise, and for filling up any temporary or other vacancies in the office of assessor.

Any rule made in pursuance of this section shall be laid before each House of Parliament within forty days after it is made if Parliament be then sitting, or, if not then sitting, within forty days after the commencement of the then next session of Parliament.

If either House of Parliament present an address to Her Majesty within forty days after any such rule has been laid before such House, praying that any such rule may be annulled, Her Majesty may thereupon by Order in Council annul the same, and the rule so annulled shall thenceforth become void, but without prejudice nevertheless to the making of any other rule in its place, or to the

A.D. 1876.

validity of anything which may in the meantime have been done under any such rule.

Amendment of the Supreme Court of Judicature Act, 1875, in relation to the constitution of Her Majesty's Court of Appeal.

14. Whereas it is expedient to amend the constitution of Her Majesty's Court of Appeal in manner herein-after mentioned: Be it enacted that—

Whenever any two of the said paid judges of the Judicial Committeee of the Privy Council have died or resigned, Her Majesty may appoint an additional ordinary judge of the said Court of Appeal beyond the number of ordinary judges authorised to be appointed by the Supreme Court of Judicature Act, 1875, and on the death or resignation of the remaining two paid judges of the Judicial Committee of the Privy Council, Her Majesty may appoint a second additional ordinary judge of the said Court of Appeal beyond such number as aforesaid, and may from time to time fill up any vacancies occurring in the offices of such first and second additional ordinary judges.

An additional ordinary judge appointed in pursuance of this Act shall be appointed in the same manner, hold his office by the same tenure, be entitled to the same salary and pension, and in all respects be in the same position as an ordinary judge appointed in pursuance of the said Supreme Court of Judicature Act.

Amendment of Judicature Acts as to appeals from High Court of Justice in certain cases.

15. Where by Act of Parliament it is provided that the decision of any court or judge the jurisdiction of which court or judge is transferred to the High Court of Justice is to be final, an appeal shall not lie in any such case from the decision of the High Court of Justice, or of any judge thereof, to Her Majesty's Court of Appeal.

Repeal and Definitions.

Repeal of certain sections of the Church Discipline Act and of the Supreme Court of Judicature Acts.

16. Section sixteen of the Act for better enforcing Church Discipline, passed in the session of the third and fourth years of the reign of Her present Majesty, chapter eighty-six, and sections twenty, twenty-one, and fifty-five of the Supreme Court of Judicature Act, 1873, and section two of the Supreme Court of Judicature Act, 1875, shall be repealed (with the exception of so much of section two as declares the day on which that Act is to commence).

Definitions:

17. In this Act, if not inconsistent with the context, the following expressions have the meaning herein-after respectively assigned to them; that is to say,

"high judicial offices:"

"High judicial office" means any of the following offices; that is to say,

The office of Lord Chancellor of Great Britain or Ireland, or of paid judge of the Judicial Committee of the Privy Council, or of judge of one of Her Majesty's superior courts of Great Britain or Ireland:

"Superior courts of Great Britain and Ireland" means and includes,— "superior courts:"

As to England, Her Majesty's High Court of Justice and Her Majesty's Court of Appeal, and the superior courts of law and equity in England as they existed before the constitution of Her Majesty's High Court of Justice; and

As to Ireland, the superior courts of law and equity at Dublin; and

As to Scotland, the Court of Session:

"Error" includes a writ of error or any proceedings in or by way of error. "error."

Appellate Jurisdiction.
[H.L.]

A

BILL

INTITULED

An Act for amending the Law in respect of the Appellate Jurisdiction of the House of Lords, and for other purposes.

(*Brought from the Lords* 16 *March* 1876.)

Ordered, by The House of Commons, *to be Printed,* 22 *March* 1876.

[Bill 111.]

Under 2 *oz.*

Ardglass Harbour Bill.

ARRANGEMENT OF CLAUSES.

Clause.

Preamble recites 7 & 8 Geo. 4. c. lxxx. (Local); 11 Geo. 4. c. xi. (Local); Piers Acts, 1864 and 1866; 9 & 10 Vict. c. 3.

1. Short title.
2. "The Board."
3. Incorporation of Commissioners of Public Works, Ireland.
4. Harbour of Ardglass vested in the Board.
5. Funds provided for expenses of works.
6. 9 & 10 Vict. c. 3. incorporated with this Act.
7. Appointment of harbour-master and officers.
8. Power to the Board to levy tolls.
9. 6 & 7 Will. 4. c. 117. incorporated in part with this Act.
10. Harbours Act, 1847, Railways Act, 1863, incorporated in part with this Act.
11. Lights to be exhibited.
12. List of tolls to be published.
13. Recovery of tolls.
14. Power to the Board to make byelaws.
15. Application of tolls.

A

B I L L

FOR

Improvement of the Harbour of Ardglass, in the county of Down. A.D. 1876.

WHEREAS by an Act of Parliament of the session held in the seventh and eighth years of the reign of His late Majesty King George the Fourth, chapter eighty of Local and Personal Acts, intituled "An Act for maintaining and improving the harbour of Ardglass, in the county of Down," after reciting that various sums of public money had been granted and laid out in improving the said harbour, and that William Ogilvie, Esquire, the proprietor of said harbour, claimed to be entitled to certain customs or duties upon vessels entering and using the said harbour, it was amongst other things provided, that certain duties therein mentioned and payable in respect of vessels entering and using said harbour, should be and the same were thereby abolished, and the said proprietor of the said harbour with other persons were thereby appointed Commissioners for the execution of the said Act, and said Commissioners were thereby authorised to levy the several rates and duties in said Act mentioned, which were to be laid out and applied after defraying expenses in improving the said harbour and maintaining it in repair: 7 & 8 G. 4. c. lxxx. (Local).

And whereas by one other Act of Parliament of the session held in the eleventh year of His said late Majesty King George the Fourth, chapter eleven, intituled "An Act to enable the Commissioners of the harbour of Ardglass, in the county of Down, to make contracts for works and to borrow money for the improvement of said harbour," the Commissioners of said harbour were authorised to borrow and take up at interest any sum or sums of money upon the credit of the rates and duties to be levied, collected, and raised, and to be payable to the said Commissioners by virtue of the said Acts: 11 G. 4. c. xi. (Local).

And whereas the said Commissioners, in exercise of the said borrowing power, obtained a loan of the sum of six thousand six hundred and fifty pounds from the Commissioners for the promotion and extension of public works in Ireland, the repayment whereof with interest at the rate of four pounds per centum per annum was secured by a deed of mortgage bearing date the fourth day of July

A.D. 1876.

one thousand eight hundred and thirty-two, and by indenture of equal date Aubrey De Vere Beauclerck, Esquire, the successor in estate to the said Wm. Ogilvie gave precedence to said last-mentioned mortgage, and agreed that the same should have priority to certain claims or demands of his affecting the tolls or dues arising out of said harbour:

And whereas two provisional orders in relation to the said harbour and to certain works for the repair and rebuilding thereof were made by the Board of Trade in the years one thousand eight hundred and sixty-four and one thousand eight hundred and sixty-six, and the same were respectively confirmed by "The Pier and Harbour Orders Confirmation Act, 1864," and "The Pier and Harbour Orders Confirmation Act, 1866":

Piers Acts, 1864 and 1866.

And whereas the said works of repair and rebuilding of the said harbour of Ardglass so in contemplation when the said provisional orders were made have not been executed:

And whereas the works of the said harbour have fallen into a state of disrepair, and have been to a great extent overthrown by storms:

And whereas the said harbour, both from its position and natural features, is of great value and importance to fisheries of the north-east coast of Ireland, and it is desirable for the encouragement of those fisheries that the said harbour should be restored, improved, and made available for the numerous vessels engaged therein, both as a place of shelter and of trade:

And whereas the cost of restoring and improving the said harbour is estimated at twenty thousand pounds, and the Commissioners of Public Works are not under the provisions of the Act passed in the ninth year of Her present Majesty, chapter three, and the various Acts amending the same, authorised to advance as a grant for such purpose an amount exceeding seven thousand five hundred pounds, and it is advisable that the said Commissioners should have power and authority to advance as a grant for the purpose of restoring and improving said harbour an amount not exceeding the sum of fifteen thousand pounds, on the condition that a further sum of five thousand pounds shall be made up and subscribed by the local subscriptions and contributions of persons in the formation of the said works, or shall be raised in whole or in part by way of loan, and in that case it shall and may be lawful for the Board, with the like consent and approbation, to advance by way of loan any sum not exceeding the said sum of five thousand pounds, such sum to be at such rate of interest, and to be secured in such way as may be approved of by the Commissioners of Her Majesty's Treasury:

9 & 10 Vict. c. 3.

A.D. 1876.

And whereas in consideration of the said harbour being repaired, restored, and improved as aforesaid, Aubrey De Vere Beauclerck has proposed and agreed to relinquish all claims and demands which he could or might make for or in respect of any lands and premises allocated to or required for the said harbour, and also all sum and sums of money due for or in respect of any expenditure as aforesaid, made either by him or the said William Ogilvie or the said Aubrey De Vere Beauclerck:

And whereas for the purposes aforesaid it is expedient to enact as follows:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be called as "The Ardglass Harbour Act, 1876."

"The Board."

2. The term "the Board" in this Act or in any proceedings or documents under the same shall mean "the Commissioners of "Public Works in Ireland."

Incorporation of Commissioners of Public Works, Ireland.

3. The Board, for the purposes of this Act, shall be incorporated under the style of "the Commissioners of Public Works in Ireland," and by that name shall have succession, and shall have a common seal to be by them made, and from time to time altered, as they shall think fit, and all courts, judges, justices, and persons judicially acting, and other officer, shall take judicial notice of such seal and every order or other act of the Board in reference to this Act, or copies of the same purporting to be sealed with such seal shall be received in evidence without further proof.

Harbour of Ardglass vested in the Board.

4. *From and after the passing of this Act* all the ground or other property forming the said harbour of Ardglass and the piers, quays, and wharfs thereof or in any manner connected therewith, shall be and the same are hereby transferred to and vested in the said Board for public purposes in order that the same may be rendered more safe and commodious as a refuge for vessels resorting thereto; but the word harbour shall not include the inside dock and stores which are the private property of the said Aubrey De Vere Beauclerck.

Funds provided for expenses of works.

5. It shall and may be lawful for the Board out of the funds from time to time at their disposal, by and with the consent and approbation of the Commissioners of Her Majesty's Treasury, to make advances *by way of grant to an amount not exceeding in the whole the sum of fifteen thousand pounds,* on the condition that a further sum of five thousand pounds shall be made up and subscribed

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by the local subscriptions and contributions of persons interested in the formation of the said works, or shall be raised in whole or in part by way of loan, and in that case it shall and may be lawful for the Board, with the like consent and approbation, to advance by way of loan any sum not exceeding the said sum of five thousand pounds, such sum to be at such rate of interest and to be secured in such way as may be approved of by the Commissioners of Her Majesty's Treasury.

9 & 10 Vict. c. 3. incorporated with this Act.

6. The said Act passed in the session of Parliament held in the ninth year of the reign of Her present Majesty, chapter three, intituled "An Act to encourage the Sea Fisheries of Ireland, by "promoting and aiding with grants of public money the construc- "tion of piers, harbours, and other works," and the several Acts amending the same, so far as their provisions are not expressly repealed by, inconsistent with, or varied by the provisions hereof, shall be and the same are hereby incorporated with this Act, and the term "Commissioners" therein contained shall be taken to mean the said Board.

Appointment of harbour-master and officers.

7. Subject to the approval of the Commissioners of Her Majesty's Treasury, the Board shall from time to time appoint a good and sufficient person, and good and sufficient persons, to act as harbour master, collector, and other necessary officers within the said harbour, and shall from time to time remove any of such persons and appoint others in their stead, with such salary or allowance respectively as to the Commissioners of Her Majesty's Treasury shall seem fitting and expedient.

Power to the Board to levy tolls.

8. It shall and may be lawful for the Board and they are hereby authorised to levy or cause to be levied and paid for the use of the said harbour and tolls, wharfage rates, license duties, and charges as the Commissioners of Her Majesty's Treasury shall from time to time approve of, and the same shall be raised, levied, collected, and paid to the officer appointed by the said Board to receive the same.

6 & 7 W. 4. c. 117. incorporated in part with this Act.

9. The provisions contained in sections fourteen, fifteen, and sixteen and in sections twenty-one to twenty-eight, both inclusive, of the Act passed in the session of Parliament held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, chapter one hundred and seventeen, intituled "An Act "to amend several Acts relating to the harbour of Kingstown," shall be incorporated with this Act, and be held to apply to said Ardglass Harbour as effectually as if it had been named therein, and the term "Commissioners" in the said sections contained shall be taken to mean the said Board.

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Harbours Act, 1847, Railways Act, 1863, incorporated in part with this Act.

10. Sections 12, 13, 77, and 78 of "The Harbours, Docks, and Piers Clauses Act 1847," and sections 13, 18, and 19 of "The Railways Clauses Act, 1863," are incorporated with and form part of this Act; and in construing these sections the Board shall be held to be "the Undertakers" and "the Company" therein respectively mentioned.

Lights to be exhibited.

11. The Board shall at the outer extremity of the works of Ardglass Harbour exhibit and keep burning, from sunset to sunrise, such light or lights (if any) as the Commissioners of Irish Lights shall from time to time direct.

List of tolls to be published.

12. The said Board shall cause a list, printed or painted in legible characters, of the several rates and tolls which the said Commissioners shall from time to time direct and appoint to be taken, and which shall be payable by virtue of this Act, to be affixed in some conspicuous place within the limits of the said harbour.

Recovery of tolls.

13. In case any person liable to pay tolls or rates shall refuse or neglect to pay the same, it shall be lawful for the Board or for the collector of the said tolls and rates or other officer or agent or other person to whom such toll or rate ought to have been paid, to seize the vessels, goods, articles, and things in respect of which such tolls or rates ought to have been paid wherever the same may be found, and to detain the same until such tolls or rates, together with the reasonable costs of such seizure or detention shall be paid; and if such vessels, goods, articles, and things shall not be redeemed within twenty-one days after the seizure thereof, the same shall be appraised and sold, and after deducting the costs of such seizure, detention, and sale, all such sums as shall be due in respect of such toll or rates shall be satisfied thereout, and the overplus paid to the owner in like manner as the law directs in cases of distress for rent in arrear.

Power to the Board to make byelaws.

14. It shall and may be lawful for the Board and they are hereby authorised and empowered from time to time, subject to the approval of the Commissioners of Her Majesty's Treasury, to make such byelaws, rules, orders, and regulations, not being contrary to any law or statute in force in Ireland, as to them shall seem meet and proper, and to fix and specify therein such penalties to be inflicted on any person or persons offending against the same as to them shall seem expedient, with power to the justice or justices of the peace to award any lesser sum by way of penalty than that fixed by such byelaw, rule, order, or regulation, or to remit such penalty according to the circumstances of every case for better carrying into effect the

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purposes of this Act, or in any manner relating thereto, and from time to time to alter or repeal all or any of such byelaws, rules, orders, or regulations as to the said Board shall seem reasonable, and all such byelaws, rules, orders, or regulations shall be reduced into writing, and be sealed with the seal of the Board, and a copy thereof sealed as aforesaid shall be deposited with the clerk of the peace of the county of Down, and the same shall be kept with the records of the said county, and a printed or painted copy of such of the said byelaws, rules, orders, or regulations as shall subject any person not being an officer or servant of the Board to any fine or penalty shall be exhibited on boards or otherwise within the limits of the said harbour, and such byelaws, rules, and orders shall be binding upon and shall be observed by all persons whomsoever; and if any person shall pull down, deface, injure, or destroy any of such boards or obliterate or deface any of the writing thereon, he shall for every such offence forfeit and pay any sum not exceeding the sum of forty shillings: Provided always, that in all cases of prosecution for any offence or offences against any of the byelaws, rules, orders, and regulations of the said Board, the production of a book or document purporting to contain the byelaws, rules, orders, or regulations of the Board, and authenticated by the seal of the Board, shall be conclusive evidence of the existence of such byelaws, rules, orders, or regulations.

Application of tolls.

15. The tolls, rates, and charges payable under the provisions of this Act shall be applied by the Board from time to time in repairing and maintaining the said harbour as the Board may think right, and the overplus thereof, if any, shall be applied to the repayment of the sum of five thousand pounds, with interest, locally guaranteed and afterwards in such manner as may from time to time be directed by the Commissioners of Her Majesty's Treasury.

Ardglass Harbour.

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B I L L

For improvement of the Harbour of Ardglass in the county of Down.

(*Prepared and brought in by Mr. William Henry Smith and Sir Michael Hicks-Beach.*)

Ordered, by The House of Commons, *to be Printed,* 19 *June* 1876.

[Bill 200.]

Under 2 *oz.*

Arklow Harbour Improvement Bill.

ARRANGEMENT OF CLAUSES.

Clause.

Preamble recites 32 Geo. 3. c. 24. (I.) and 26 Vict. c. ccix. (Local).

1. Short title.
2. "The Board."
3. Incorporation of Commissioners of Public Works, Ireland.
4. Harbour vested in the Board.
5. Act 26 Vict. c. ccix. repealed.
6. Authority to execute works.
7. Funds provided for expenses of works.
8. 9 & 10 Vict. c. 3. and amending Acts incorporated with this Act.
9. Appointment of harbour master and officers.
10. Power to the Board to levy tolls.
11. Act 6 & 7 Will. 4. c. cxvii. incorporated in part with this Act.
12. Harbours Act, 1847, Railways Act, 1863, incorporated in part with this Act.
13. Lights to be exhibited.
14. Saving rights of the Crown in the foreshore.
15. List of tolls to be published.
16. On completion of the works the Board may transfer same.
17. Application of tolls.
18. Recovery of tolls.
19. Power to the Board to make byelaws.
20. Proof of byelaws.

A

B I L L

FOR

The Improvement of the Harbour of Arklow, in the County of Wicklow. A.D. 1876.

WHEREAS by an Act of Parliament of Ireland of the thirty-second year of George the Third, chapter twenty-four, intituled "An Act for the better enabling certain persons to open and work "mines, and to raise coal, culm, minerals, and fossils in this kingdom, "and to open and improve the harbour of Arklow in the county of "Wicklow, and to form a canal from the said harbour of Arklow to "the Meetings Bridge, and to extend the same towards the Kilkenny "collieries and the Glemnalur mines," the Hibernian Mine Company were incorporated with divers powers for working mines and for opening and improving the harbour of Arklow, and for making and maintaining canals and navigation works, with power to take rates and duties for vessels using their harbours and canals: 32 G. 3. c. 24. (I.)

And whereas by an Act passed in the twenty-sixth year of the reign of Her Majesty the Queen, being "An Act for the amalgama- "tion of the Hibernian Mine Company with the Wicklow Copper "Mine Company (Limited), and for other purposes;" after reciting amongst other things the said Act, and that the property of the Hibernian Company comprised the quays of the harbour of Arklow, with all the wharves and buildings thereon held in fee; and that the Hibernian Company had expended more than seventeen thousand pounds on works for the improvement of the said harbour and for making it fit for the reception of vessels and the landing and shipping of goods; and reciting that on the second day of February one thousand eight hundred and fifty-eight the Wicklow Copper Mine Company was registered under the Joint Stock Companies Act, 1856, as a Company with limited liability; and that the two Companies were desirous and it was expedient that the two Companies and their respective undertakings, property, and effects should be amalgamated, and that, in order to the amalgamation of the two Companies, the memorandum of agreement, of which a copy is given in the Schedule (A.) to said Act annexed, had been entered into by and on behalf of the 26 Vict. c. ccix. (Local).

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two Companies; and that it was expedient that it should be confirmed and carried into effect, it is enacted that on the first day of September one thousand eight hundred and sixty-three the two Companies should be thereby amalgamated into a new Company, which, by the name "the Wicklow Copper Mine Company," should be one body corporate, with perpetual succession and a common seal and with the powers thereby given; and that the recited Act of the Parliament of Ireland of the thirty-second year of George the Third, chapter twenty-four, relating to the Hibernian Company should on the first day of September one thousand eight hundred and sixty-three be repealed, and that all the estates and property, including the harbour of Arklow, to which the two Companies respectively were seised or possessed, should be vested in the Wicklow Copper Mine Company:

And whereas one of the objects for which the Wicklow Copper Mine Company was incorporated was the maintaining, repairing, and improving of the harbour of Arklow and the channel embankments, piers, quays, wharves, buildings, and other works and conveniences of and connected with the harbour, and the regulating and controlling of the user of the same, and for any of those purposes, and also for the purpose of erecting sluices and other works for the improvement of the said harbour, the Company may at all times use the bridge of Arklow, provided they make good any injury the bridge may sustain by their operations:

And whereas the said harbour of Arklow is an important station and place of refuge for vessels employed in prosecuting the sea fisheries on the east coast of Ireland, but the said harbour has of late years been gradually silting up, and a bar is frequently formed across the entrance thereto, whereby its value and usefulness has been materially injured:

And whereas it is expedient that the said harbour should be deepened, extended, and otherwise improved, and the Wicklow Copper Mine Company, in whom the said harbour is now vested, being unable to undertake the execution of the necessary works for that purpose, are willing to transfer to the Commissioners of Public Works in Ireland the said harbour of Arklow and all their estate and property therein, and rights and easements connected therewith, to be by them extended and improved as herein-after mentioned:

And whereas the cost of the execution of the necessary works of extension and improvement is estimated at twenty-six thousand pounds, and the said Commissioners of Public Works are not, under the provisions of the Act passed in the ninth year of Her present

A.D. 1876.

Majesty, chapter three, and the various Acts amending the same, authorised to advance as a grant for such purpose an amount exceeding seven thousand five hundred pounds, and it is advisable that the said Commissioners should have power and authority to advance as a grant for the purpose of the works aforesaid an amount not exceeding the sum of thirteen thousand pounds:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Arklow Harbour Act, 1876."

"The Board."

2. The term "the Board" in this Act, or in any proceedings or documents under the same, shall mean "the Commissioners of "Public Works in Ireland."

Incorporation of Commissioners of Public Works, Ireland.

3. The Board for the purposes of this Act shall be incorporated under the style of "The Commissioners of Public Works in Ireland," and by that name shall have succession, and shall have a common seal to be by them made, and from time to time altered as they shall think fit, and all courts, judges, justices, and persons judicially acting and other officers shall take judicial notice of such seal, and every order or other act of the board in reference to this Act, or copies of the same, purporting to be sealed with such seal, shall be received in evidence without further proof.

Harbour vested in the Board.

4. From and after the passing of this Act all the ground or other property forming the said harbour of Arklow, and the piers, quays, and wharves thereof, or in any manner connected therewith, and all rights and easements connected therewith, shall be and the same are hereby transferred to and vested in the Board for the purposes herein-after mentioned.

Act 26 Vict. c. ccix. repealed.

5. The said recited Act of the twenty-sixth and twenty-seventh Victoria, chapter two hundred and nine, called the "Wicklow Copper Mine Company's Act, 1863," is hereby repealed.

Authority to execute works.

6. The Board is hereby authorised to proceed with all necessary works for deepening, extending, and improving the said harbour, and with such other works appertaining thereto, as they may deem fit and proper.

Funds provided for expenses of works.

7. It shall and may be lawful for the Board, out of the funds from time to time at their disposal, by and with the consent and

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approbation of the Commissioners of Her Majesty's Treasury, to make advances *by way of grant to an amount not exceeding in the whole the sum of thirteen thousand pounds, being one moiety of the said sum so authorised to be expended, and it shall and may be lawful for the Board, with the like consent and approbation, to advance* by way of loan any sum not exceeding the sum of *thirteen thousand pounds*, being the other moiety of the said sum, or such further sum as may be required for the completion of said works, such loan to be at such rate of interest, and to be secured in such way as may be approved of by the said Commissioners of Her Majesty's Treasury.

9 & 10 Vict. c. 3. and amending Acts incorporated with this Act.

8. The said Act passed in the session of Parliament, held in the ninth year of the reign of Her present Majesty, chapter three, intituled "An Act to encourage the sea fisheries of Ireland by "promoting and aiding with grants of public money the construc- "tion of piers, harbours, and other works," and the several Acts amending the same, so far as their provisions are not expressly repealed by, inconsistent with, or varied by the provisions hereof, shall be and the same are hereby incorporated with this Act; and the term "Commissioners" therein contained shall be taken to mean the said Board.

Appointment of harbour master and officers.

9. Subject to the approval of the Commissioners of Her Majesty's Treasury, the Board shall from time to time appoint a good and sufficient person and good and sufficient persons to act as harbour master, collector, and other necessary officers within the said harbour, and shall from time to time remove any of such persons and appoint others in their stead, with such salary or allowance respectively as to the Commissioners of Her Majesty's Treasury shall seem fitting and expedient.

Power to the Board to levy tolls.

10. It shall and may be lawful for the Board, and they are hereby authorised to levy or cause to be levied and paid for the use of the said harbour, such tolls, wharfage, rates, license duties, and charges as the Commissioners of Her Majesty's Treasury shall from time to time approve of; and the same shall be raised, levied, collected, and paid to the officer appointed by the said Board to receive the same.

Act 6 & 7 W. 4. c. cxvii. incorporated in part with this Act.

11. The provisions contained in sections fourteen, fifteen, and sixteen, and sections twenty-one to twenty-eight both inclusive, of the Act passed in the session of Parliament, held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, chapter 117, intituled "An Act to amend several Acts "relating to the harbour of Kingstown" shall be incorporated with this Act, and be held to apply to said Arklow Harbour as effectually

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as if it had been named therein; and the term "Commissioners" in said sections contained shall be taken to mean the said Board.

Harbours Act, 1847, Railways Act, 1863, incorporated in part with this Act.

12. Sections twelve, thirteen, seventy-seven, and seventy-eight of "The Harbours, Docks, and Piers Clauses Act, 1847," and sections thirteen, eighteen, and nineteen of "The Railways Clauses Act, 1863," are incorporated with and form part of this Act, and in construing these sections the Board shall be held to be the "Undertakers" and "the Company" therein respectively mentioned.

Lights to be exhibited.

13. The Board shall at the outward extremity of the works of Arklow Harbour exhibit and keep burning from sunset to sunrise such light or lights (if any) as the Commissioners of Irish Lights shall from time to time require.

Saving rights of the Crown in the foreshore.

14. Nothing contained in this Act shall authorise the Board to take, use, or in any manner interfere with any portion of the shore, or bed, of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in, or enjoyed, or exerciseable by the Queen's Majesty, her heirs or successors.

List of tolls to be published.

15. The Board shall cause a list, printed or painted in legible characters, of the several rates and tolls which they shall from time to time direct and appoint to be taken, and which shall be payable by virtue of this Act, to be affixed in some conspicuous place within the limits of the said harbour.

On completion of the works the Board may transfer same.

16. It shall be lawful for the Board, by and with the consent of the Commissioners of Her Majesty's Treasury, by warrant under the seal of the Board, upon completion of the works hereby authorised, to direct that the said harbour of Arklow, with the tolls thereof, shall be deemed and become the property of such person or persons, body or bodies as the Board may name therein, and from and after the date of any such warrant the said harbour of Arklow, together with all rights, members, and appurtenances thereunto belonging, shall be deemed and taken to be the property of such person or persons, body or bodies, to be held, maintained, and preserved by him or them, with all such powers and authorities, and subject to such provisions, conditions, and regulations as may be in said warrant referred to or set forth in relation thereto: Provided that if the said person or

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persons, body or bodies shall at any time neglect duly to maintain and preserve the said harbour of Arklow and the works done in pursuance of this Act, it shall and may be lawful for the said Board by warrant under the seal of the Board to appoint a receiver over the tolls, rates, and profits arising from said harbour and to expend same in making and effecting such repairs as to the said Board may seem necessary.

Application of tolls.

17. The tolls, rates, and charges payable under the provisions of this Act shall be applied by the Board, or the person or persons, body or bodies in whom the said harbour may be vested as aforesaid from time to time in repairing and maintaining the said harbour, and the overplus thereof, if any, shall be applied in such manner as may from time to time be directed by the Commissioners of Her Majesty's Treasury.

Recovery of tolls.

18. In case any person liable to pay tolls or rates shall refuse or neglect to pay the same, it shall be lawful for the Board or for the collector of the said tolls and rates, or other officer or agent, or other person to whom such toll or rate ought to have been paid, to seize the vessel, goods, articles, and things in respect of which such tolls or rates ought to have been paid wherever the same may be found, and to detain the same until such tolls or rates, together with the reasonable costs and expenses of such seizure and detention, shall be paid, and if such vessel, goods, articles, and things shall not be redeemed within *twenty-one days* after the seizure thereof, the same shall be appraised and sold, and, after deducting the costs of such seizure, detention, and sale, all such sums as shall be due in respect of such tolls or rates shall be satisfied thereout, and the overplus paid to the owner in like manner as the law directs in cases of distress for rent in arrear.

Power to the Board to make bye-laws.

19. It shall and may be lawful for the Board and they are hereby authorised and empowered from time to time, subject to the approval of the Commissioners of Her Majesty's Treasury, to make such byelaws, rules, orders, and regulations, not being contrary to any law or statute in force in Ireland, as to them shall seem meet and proper, and to fix and specify therein such penalties to be inflicted on any person or persons offending the same as to them shall seem expedient, with power to the justices of the peace to inflict any lesser sum by way of penalty than that named in such byelaw, rule, order, or regulation, or to remit such penalty according to the circumstances of every case for better carrying into effect the purposes of this Act, or in any manner relating thereto, and from time to time to alter or repeal all or any of such byelaws, rules,

orders, or regulations, and to make others; and all such byelaws, rules, orders, and regulations shall be reduced into writing and sealed with the corporate seal of the Board, and a copy thereof sealed shall be deposited with the clerk of the peace of the county of Wicklow, and the same shall be kept with the records of the said county; and a printed or painted copy of such of the said byelaws, rules, orders, or regulations as shall subject any person, not being an officer or servant of the said Board, to any fine or penalty shall be exhibited on boards or otherwise, with the limits of the said harbour; and such byelaws, rules, and orders shall be binding upon and shall be observed by all persons whomsoever; and if any person shall pull down, deface, injure, or destroy any of such boards, or obliterate or deface any of the writing thereon, he shall for every such offence forfeit and pay any sum not exceeding the sum of *forty shillings*.

Proof of byelaws.

20. Provided always, that in all cases of prosecution for any offence or offences against any of the byelaws, rules, orders, and regulations of the said Board, the production of a book or document purporting to contain the byelaws, rules, orders, or regulations of the Board and authenticated by the seal of the Board as aforesaid shall be conclusive evidence of the existence of such byelaws, rules, orders, or regulations.

provement.

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B I L L

For the Improvement of the Harbour of Arklow, in the County of Wicklow.

(*Prepared and brought in by Mr. William Henry Smith and Sir Michael Hicks-Beach.*)

Ordered, by The House of Commons, *to be Printed,* 19 *June* 1876.

[Bill 199.]

Under 2 *oz.*

Army Corps Training Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.

Regulations as to the Forces.

2. Passage of forces over lands.
3. Lands closed against passage of forces.
4. Compensation for damage done by forces.
5. Regulations as to passage of forces over lands to be made by commanding officer.
6. Mode of determining the compensation payable in respect of damage by passage of forces.

Regulations as to Persons not belonging to the Forces, and Miscellaneous.

7. Offences against Act.
8. Constables to be appointed for repression of offences against Act.
9. Justices to be appointed for punishment of offences against Act.
10. Evidence of orders and regulations.

Definitions.

11. Definitions.

Duration of Act.

12. Time during which Act is to remain in force.

SCHEDULES.

A

B I L L

TO

Facilitate the assembling and training of certain Army Corps. A.D. 1876.

WHEREAS it is intended that during the present summer the second and fifth Army Corps should be assembled for the purposes of military instruction and training; as to the second Army Corps within the training ground comprising the several areas described in the first schedule hereto, and as to the fifth Army Corps within the training ground comprising the several areas described in the second schedule hereto, both which training grounds comprising respectively the several areas so described in the first and second schedules hereto are in this Act included under the expression "the limits of this Act," and are separately referred to as the scheduled training grounds:

And whereas it is expedient that provision should be made for facilitating the training of the said Army Corps, and for making compensation to persons whose lands may be damaged by the said Army Corps, and for other purposes connected with such assemblage and training as aforesaid:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the "Military Training Act, 1876." Short title.

Regulations as to the Forces.

2. Within the limits of this Act the forces to which this Act applies, in this Act referred to as "the forces," with their arms, munitions of war, and stores, may pass over, encamp, or practice military exercises on any lands, use any public, private, or occupation roads, and do all such things as may be required to be done Passage of forces over lands.

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for any of the above purposes. They may also supply themselves with water from any sources of water except dew ponds and existing wells, and may, for the purpose of obtaining such supply, dam up any running water, lay water pipes, sink wells, and do all such other acts and things as may be required. They may also make temporary bridges across streams, slope the banks, and otherwise do such acts in relation to the crossing streams as may be necessary for providing for the safe passage of the forces, with their arms, munitions of war, and stores.

The forces may supply themselves with water from the waterworks of the Horsham Waterworks Company, the Lewes Waterworks Company, Limited, and the Dorking Waterworks Company, *on payment of such compensation* as may be agreed upon, or in the event of disagreement may be determined in the manner in which compensation for damage is determined under this Act.

Lands closed against passage of forces.

3. Nothing in this Act contained shall empower the forces to enter upon or interfere with any dwelling-house, farmyard, garden, orchard, pleasure ground, nursery ground, or any premises enclosed within the curtilage of or attached to any dwelling-house.

Compensation for damage done by forces.

4. *Full compensation shall be made, out of moneys to be provided by Parliament*, for any damage that may be caused to any lands within the limits of this Act, by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands, or supplying themselves with water, and the amount of compensation payable to any person entitled to such compensation shall be determined as in this Act mentioned; but no person belonging to the forces shall be liable to any action, indictment, or other legal proceeding in respect of any trespass committed by him upon or damage done to land situate within the limits of this Act.

Regulations as to passage of forces over lands to be made by commanding officer.

5. The officer in command of the forces training in each of the said scheduled training grounds shall from time to time, as to the training ground within his command, by order make regulations with respect to the protection of cattle and sheep by securing the same in folds or farmyards, and with respect to any other matter or thing which he may deem essential for the purpose of preventing damage to property, and for more efficiently carrying into effect the purposes of this Act.

Public notice shall be given within each area, in such manner as may be directed by the said officer, of any regulation made in pursuance of this Act for the protection of any cattle, sheep, or other property, and no person who neglects to comply with any regula-

tion so made in relation to his property shall be entitled to claim compensation in respect of any damage caused to such property in consequence of his having been guilty of such neglect as aforesaid.

Any powers by this Act given to the said officer in command of making any order or doing any other act or thing may be exercised on behalf of the said officer by any officer or officers deputed by him for the purpose.

Any order made in pursuance of this Act in relation to lands may describe such lands by reference to a map, or in any other convenient manner.

Any order made under this Act may be altered or amended or a new order made in lieu thereof.

Mode of determining the compensation payable in respect of damage by passage of forces.

6. The following enactments shall be made with respect to compensation for damage under this Act:

(1.) The Commissioners of the Treasury shall appoint a fit person for each of the said scheduled training grounds, in this Act called the compensation officer, whose duty it shall be, immediately the forces have ceased to occupy any part of the scheduled training ground for which such officer acts, to ascertain the damage done, and to receive and settle summarily, and as far as practicable, by agreement, the amount of compensation, in which case the compensation officer shall either cause the compensation to be paid at once, or shall give a writing to the person entitled, stating the amount to be paid, and the place and date at which the same will be paid, such date not being later than *thirty days* from the time at which such writing is given:

(2.) The mode in which claims of compensation are to be sent to the compensation officer shall be notified within each of the scheduled training grounds in manner directed by the officer in command in each training ground. Every claim for compensation shall be sent to the compensation officer immediately after the forces have ceased to occupy the land in respect of which compensation is claimed, and at the latest within one week after the damage done:

(3.) Compensation may be paid to the person in actual occupation of the land in respect of which it is claimed, or in case of his absence, or inability, to his wife or some member of his family, his steward, or other person acting for him in the cultivation and management of the land, whose receipt shall be a complete discharge for the damage in respect of which the compensation is paid:

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(4.) The Commissioners of the Treasury may, if they think fit, appoint any fit persons to be assistant compensation officers under this Act, and any assistant compensation officer so appointed shall perform the duties and have the powers by this Act conferred on the compensation officer:

(5.) If the compensation officer fails to settle any claim for compensation, or is unable to decide the person to whom compensation is payable, the case shall be referred by him to the court of arbitration formed under this Act, with a statement by the compensation officer of what he considers a fair compensation for the damage done:

(6.) A court of arbitration shall consist of *three* persons, one of whom shall be named by the lord lieutenant of the county within which the claim arises, one by the Commissioners of Her Majesty's Treasury, and the third by the two persons already chosen, in writing under their hands, or in case of their failure to agree as to such appointment within three days, by the lord chief justice of England:

(7.) Any vacancy in the office of any member of a court of arbitration formed under this Act, occasioned by death, resignation, unwillingness to act, or otherwise, shall be filled up by the authority which appointed the vacating member in the same manner in which the vacating member was appointed:

(8.) *There shall be paid to the members of any court of arbitration formed under this Act, such compensation as one of Her Majesty's Principal Secretaries of State may, with the approval of the Treasury, determine:*

(9.) The court of arbitration shall have full power to decide all questions whatsoever, whether of law or fact, which it may be necessary to decide for the purpose of awarding compensation under this Act, and in particular to decide in any case of alleged damage whether such damage was or was not caused by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands, and also (if such damage was so caused) to determine the person entitled to receive compensation for such damage, and such court of arbitration shall not be subject to be restrained in the due execution of its powers by the order of any court, nor shall any proceedings before it be removed by certiorari into any court, nor shall any award by it be set aside:

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(10.) A court of arbitration under this Act may examine witnesses on oath, and with respect to the enforcing the attendance of witnesses, after a tender of their expenses, the examination of witnesses, and the production of books, papers, and documents, shall have all such powers, rights, and privileges as are vested in Her Majesty's High Court of Justice for such or the like purpose:

(11.) A court of arbitration under this Act may hold its sittings at such times and places as it thinks expedient, and any jurisdiction or act to be exercised or done by such court of arbitration may be exercised or done by any two members of that court:

(12.) A court of arbitration under this Act may appoint a valuer, and may delegate to such valuer such powers of assessing compensation under this Act as it may think fit; but an appeal may be had from his decision to the court of arbitration which appointed such arbitrator:

(13.) A court of arbitration under this Act may examine any valuer appointed by such court as to the amount of compensation which in his opinion ought to be paid in any case of damage brought before it, and may adopt or reject his opinion as it thinks just:

(14.) A court of arbitration under this Act may review and rescind or vary any order or decision previously made by it; but, save as aforesaid, every order or decision of the said court shall be final:

(15.) A court of arbitration under this Act shall publish in such manner as it thinks fit directions as to the mode in which applications are to be made to it under this Act:

(16.) A court of arbitration under this Act shall not be bound to hear any counsel or attorney, but any person claiming compensation may appear in person or by some agent authorised by him in writing, and such court of arbitration may, in addition to compensation for damage, grant further compensation for costs reasonably incurred in substantiating a claim, or may refuse such costs wholly or partially, or reduce the amount of compensation if the person claiming refused a fair offer from the compensation officer:

(17.) Any person fraudulently claiming and receiving compensation to which he is not entitled under this Act shall be guilty of a fraud, and liable to be dealt with as if he had fraudulently received money under false pretences, and

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shall in addition be liable to pay the money received to the person entitled thereto.

(18.) If the lord lieutenant of any county by this Act empowered to name a member of the court of arbitration does not from any cause name such member within *seven* days after he has been requested so to do, such member shall be named by the lord chief justice of the common pleas.

Regulations as to Persons not belonging to the Forces, and Miscellaneous.

Offences against Act.

7. If any stranger commits any trespass upon or does any damage to any lands within the limits of this Act during the term at which such lands are in the occupation of the forces, he shall be guilty of an offence against this Act, and shall be liable to a penalty *not exceeding forty shillings*, in addition to making full compensation in money for any damage he may have caused.

Any stranger going on any lands within the limits of this Act on which the public is not entitled by law to go without the permission of the officer in command of the forces within the training ground of which such lands form part, or of some officer deputed by him, *shall be deemed to have committed a trespass on such lands, and be punishable accordingly.*

If any stranger, not having such permission as aforesaid, when warned not to go on any land, attempts to go thereon, or when on such land and warned to depart therefrom, refuses so to depart, he shall, in addition to any other penalty to which he may be subject, be deemed guilty of an offence against this Act, and be liable to a penalty *not exceeding forty shillings.* He may also be prevented by force from going on, or be removed by force from any such lands as aforesaid.

For the purposes of this section, a warning not to go on lands or to depart from lands may be given by any sentinel or other person belonging to the forces or by any constable, and in the case of enclosed lands every stranger not having such permission as aforesaid shall be deemed to have been warned not to go upon such lands, and be punishable accordingly.

Any constable may take possession of any horse or carriage with which any stranger is trespassing, and may remove the same from any lands on which it is found; and no compensation shall be payable in respect of any damage which may accrue to any such horse or carriage by reason of such removal, which is not caused by the wilful act or wilful neglect of the constable removing the same.

If any person without due authority moves any flag or other mark distinguishing any lands within the limits of this Act, or

obstructs or interferes with the movements of the forces, or cuts or damages any telegraph wire laid down by or for the use of the forces, he shall be guilty of an offence against this Act, and be liable to a penalty *not exceeding five pounds.*

If any person, within the limits of this Act, enters on any lands for the time being directed to be kept clear, or within the lines of any encampment belonging to the forces, without the special permission in writing of the officer in command of the forces within the training ground of which such lands form part, or of some officer deputed by him, he shall be guilty of an offence against this Act, and be liable to a penalty *not exceeding forty shillings;* and may, if he refuses to go, be removed by force from any lands on which he has so entered.

Any person charged with committing any offence against this Act may be taken into custody without warrant by any constable or person authorised to act as a constable, and may be detained until he can be brought before such a special magistrate as is in this Act mentioned, and be dealt with according to law: Provided that no person shall be detained under the powers of this section for more than *six hours* without being brought before a special magistrate.

Any constable or person authorised by this Act to act as a constable using force in cases in which force is by this section permitted to be used, shall be indemnified from all consequences which may result from such user of force.

Any two justices of the peace having jurisdiction in any place where encampments or exercises are about to take place or are taking place in pursuance of this Act, or any special magistrate accompanying a body of troops, may, upon the requisition of the superior officer commanding such body of troops, and with the consent of the owner or occupier of land over which any footpaths or other rights of way (save turnpike, county, or parish roads) exist, temporarily close or divert any such footpaths or other rights of way being within the limits of this Act; provided always, that the duration and limits of such stoppage or diversion shall be publicly declared by printed notices *twelve hours* previously.

The permission of the officer in command of the forces assembled on either of the said scheduled training grounds, or of some officer deputed by him, shall, for the purposes of this section, be signified by a document written or printed, or partly written and partly printed, and authenticated in such manner as may be directed by the said Secretary of State.

Constables to be appointed for repres-

8. The said Secretary of State, with the consent of the authority having power to dispose of the services of any constables, may, by

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sion of offences against Act.

order under his hand, appoint such constables, or any of them, to act as constables within the limits of this Act, or any part thereof; and every constable so appointed shall, within such limits or part for which he is appointed, have all such powers, privileges, and immunities, and be liable to all such responsibilities as any constable duly appointed has within his constablewick, by virtue of the common law of the realm, or of any Act of Parliament for the time being in force.

Any person belonging to the forces may, within the limits of this Act, when called upon by any constable, assist such constable in performing any duty imposed upon him by this Act, or may, when directed by his commanding officer, act as a constable in respect of any offence against this Act; and any person so assisting or directed to act shall, during the performance of such duty, have the same powers, privileges, and immunities as a constable appointed by the said Secretary of State to act within the limits of this Act or any part thereof.

Justices to be appointed for punishment of offences against Act.

9. The said Secretary of State may, as respects each of the areas comprised in the said scheduled training grounds, by order under his hand, appoint any county justice or justices, having jurisdiction within the county in which such area or any part thereof is situate, with his or their consent, to attend, for any time named in such order, the forces or any portion of the forces when assembled in such area; and any justice so appointed, in this Act referred to as a special magistrate, shall, during the time so named, have jurisdiction, as a justice of the peace, to punish any offence against this Act, by whomsoever committed, within the limits of the area or part thereof for which he is appointed a special magistrate, and any offence by any other Act punishable upon summary conviction, and committed by any stranger within such limits.

Any power by this Act given to a special magistrate may be exercised by any *two or more* special magistrates having like jurisdiction.

Any special magistrate may try any case in the open air, or in any other place which he may think convenient, and if the offence be committed in view of such magistrate he may punish the offender without any further evidence. An information in writing shall not be required in respect of any offence triable by any special magistrate.

Where the special magistrate determines that compensation is to be paid by any offender for any damage caused by him to lands, such magistrate shall order such compensation to be paid to the

person entitled to receive such compensation, and shall, for the purpose of determining the person so entitled, and the amount of compensation payable, but subject to the appeal herein-after mentioned, have all the powers by this Act given to the court of arbitration, and the magistrate making such order shall certify the same to the compensation officer, and the amount so paid shall be taken into consideration in considering any further claim to compensation in respect of the damage so committed.

Where any person is guilty of an offence against this Act at a place within the limits of this Act, where the forces, or any portion of them, are exercising or encamping, the special magistrate before whom such offence is tried may, if he thinks fit, instead of subjecting the offender to any other penalty, *commit him to the custody of any constable or constables, and direct him to be detained by such constable or constables, either on the field, or at any convenient spot, for any period not exceeding six hours;* and such order of commitment shall be valid without any preliminary written proceedings, provided that the special magistrate is satisfied that the offender has been guilty of the offence in respect of which he is committed to custody.

Subject as aforesaid, any offence triable under this Act by any special magistrate shall be prosecuted, as nearly as may be, in manner directed by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties "of justices of the peace out of sessions within England and Wales "with respect to summary convictions and orders," inclusive of any Acts amending the same.

An order made or warrant issued, or other act or thing done in pursuance of this Act, by a special magistrate, shall not be impeached on the ground of any defect in the jurisdiction of such magistrate, unless the objection to such jurisdiction is made at the time of the making or issue of such order or warrant, or the doing of such act or thing.

Where a special magistrate under this Act awards, by way of compensation for any damage done to lands, any sum exceeding *five pounds*, any person aggrieved by the decision of such magistrate may, upon giving security for costs to the satisfaction of the magistrate, appeal to the next practicable court of general or quarter sessions holden for the county in which the cause of appeal has arisen, and such court may upon the hearing of the appeal, confirm, reverse, or modify the decision of the special

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magistrate, or make such other order in the matter as the court thinks just.

Offences against this Act shall be triable only by a special magistrate, but subject as aforesaid nothing in this Act contained shall affect any jurisdiction which the justices of the county in which any offence may be committed would have had if this Act had not passed.

Evidence of orders and regulations.

10. Evidence of any order or regulation made by or on behalf of the officer in command of the forces in either of the said scheduled training grounds may be given in all legal proceedings whatever by the production of a copy purporting to be certified to be a true copy by such officer or any officer from time to time deputed by him to certify the same, and notice of any order or regulation made as aforesaid may be served on any person personally or by leaving a copy of such notice at his usual place of abode.

No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section to the truth of a copy of any such order or regulation.

Any order or regulation of which evidence is given in pursuance of this Act shall, until the contrary is proved, be deemed to have been duly made.

Definitions.

Definitions.

11. In this Act, if not inconsistent with the context, the following expressions have the meanings herein-after respectively assigned to them; that is to say,

The expression "forces to which this Act applies" or "the forces" means and includes all such regular troops, army reserve, militia, yeomanry, licensed sutlers, and followers in or of any of the said forces, as may for the time being be assembled within the limits of this Act, or any part thereof, during the present summer for the purposes of military instruction and training, and are subject to the Mutiny Act and Articles of War; it shall also include any constables or police attached to the said forces, or any part thereof, but not so as to subject such constables or police to the Mutiny Act and Articles of War:

The officer in command of the forces within each of the said scheduled training grounds, or any officer or officers deputed by him, may from time to time grant licenses to persons applying for the same authorising such persons to act as licensed sutlers to the forces which he commands, or to be followers

of such forces, and may from time to time revoke any licenses so granted: A.D. 1876.

Any holders of such licenses shall be subject to the Mutiny Act and Articles of War, and shall be deemed to be licensed sutlers and followers within the meaning of the said Act and Articles, but all other sutlers and followers in or of the said forces, or any part thereof, shall for the purposes of this Act be deemed to be strangers:

Any licenses granted in pursuance of this section shall be in such form and authenticated in such manner as may be prescribed by the said Secretary of State, and shall declare the fact that the person thereby licensed is subject to the Mutiny Act and to the Articles of War:

The expression "strangers accompanying the forces" or "strangers" or "stranger" means all such persons or any such person as may for the time being be attending on or accompanying the forces to which this Act applies, or any part thereof, for the purpose of trading, amusement, or any other purpose whatever, and are not or is not subject to the Mutiny Act and Articles of War, but shall not include any owner or occupier of lands when on the lands owned or occupied by him:

The expression "damage to lands" includes damage to trees, underwoods, crops, animals, or other property on such lands, and also any loss or injury that may be sustained by the occupier of any such lands on account of his being unable to cultivate and sow corn or other seeds on such lands during such occupation and passing over such lands; also any loss or injury sustained by any occupier from shutting up and securing his cattle or sheep in folds or farmyards; also any loss or injury sustained by any person by the damming up of any running stream, or by the laying of any pipes or sinking of any well, or by injury to or exhaustion of any pond or source of water, or by the use of any private or occupation roads; and "lands" includes lands covered by water:

The expression "arms, munitions of war, and stores" includes all matters and things required for the use of the forces to whom this Act applies, or any part thereof, and all animals and conveyances used for the conveyance of such matters or things; also all animals used for the food of the forces, or any part thereof:

A.D. 1876.

Duration of Act.

Time during which Act is to remain in force.

12. This Act, in so far as it relates to the power of the forces, or any part thereof, to occupy land, shall remain in force till *the first day of September next*, and no longer, but in so far as it relates to the giving of compensation for damage caused by the passage or occupation of such forces, shall remain in force till *the first day of June one thousand eight hundred and seventy-seven*, and no longer.

SCHEDULES.

A.D. 1876.

THE FIRST SCHEDULE.

TRAINING GROUND OF THE SECOND ARMY CORPS, CONSISTING OF THE AREAS HEREIN-AFTER DESCRIBED; THAT IS TO SAY,—

AREA 1.—IN THE COUNTY OF SURREY.

An area bounded by a line starting from the Shalford junction of the Reading and Redhill branch of the South-eastern Railway with the Guildford and Portsmouth branch of the London and South-western Railway, about a mile south of Guildford, and running along the said branch of the South-eastern Railway in an easterly direction to the point where it crosses the Leatherhead, Dorking, and Horsham branch of the London, Brighton, and South Coast Railway; thence along the said branch of the London, Brighton, and South Coast Railway in a southerly direction to Holmwood Station; thence along an imaginary straight line in a south-westerly direction to a point where the said straight line cuts the Guildford and Horsham branch of the London, Brighton, and South Coast Railway, near Lower Wipley Farm; thence in a north-westerly direction along the said branch of the London, Brighton, and South Coast Railway to its junction with the Guildford and Portsmouth branch of the London and South-western Railway at Pease Marsh; and thence in a north-easterly direction along the said branch of the London and South-western Railway to its junction with the Reading and Redhill branch of the South-eastern Railway at Shalford Junction aforesaid.

AREA 2.—IN THE COUNTY OF SUSSEX.

An area bounded by a line commencing at the Horsham Station of the London, Brighton, and South Coast Railway, and running thence nearly due east by Compton's Brow Farm to St. Leonard's Park; thence along the northern enclosure boundary of St. Leonard's Park, and along an imaginary straight line running south until it cuts the St. Leonard's Road from Horsham to Hawkins Pond, about a mile and three quarters eastward of Horsham; thence in a westerly direction immediately to the south of the said St. Leonard's Road to the London, Brighton, and South Coast Railway, near the town of Horsham; and thence in a north-easterly direction along the said railway to the Horsham Station aforesaid.

AREA 3.—IN THE COUNTY OF SUSSEX.

An area bounded by a line commencing at a point on the Lewes and Brighton high road opposite the Sussex County Prison at Lewes, and running in an easterly direction along the said high road for a distance of about four hundred yards to St. Anne's Church; thence along an imaginary

A.D. 1876.

straight line running due north for about seven hundred yards until it cuts the high road from Lewes to London; thence along the said high road to a point about a half a mile north of Offham Street at the junction of the high road from Plumpton; thence in a westerly direction along the high road through the village of Plumpton to the village of Westmeston; thence in a south-westerly direction along an imaginary straight line to Ditchling Beacon; thence in a south-easterly direction along an imaginary straight line running on the east of Stanmer Park to the village of Falmer; and thence in an easterly direction along the Brighton and Lewes high road to a point opposite the Sussex County Prison aforesaid.

Area 4.—In the County of Hants.

An area bounded by a line commencing at the junction of the high roads from Petersfield to Nurstead and Petersfield to Petersfield Heath, near the south-western extremity of Petersfield Heath Pond; continuing thence in a south-easterly direction along the high road from Petersfield to Nurstead to the junction of the roads from Petersfield and Sheet to Nurstead; thence along an imaginary straight line running nearly due east to a point at about one thousand three hundred yards distant from the said junction of roads; thence along an imaginary straight line running nearly due north until it cuts the Petersfield and Midhurst branch of the London and South-western Railway to the north-east of Heath Farm; thence in a north-westerly direction along the said branch of the London and South-western Railway to the point at which it crosses the high road from Petersfield to Sheet; thence along an imaginary straight line running in a southerly direction to the junction of the high roads near the south-western extremity of Petersfield Heath Pond aforesaid

Area 5.—In the County of Hants.

An area bounded by an imaginary straight line commencing at Bottom Inn on the Petersfield and Portsmouth high road and running in an easterly direction to New Farm, thence by an imaginary straight line running due north for about a mile and a quarter to a point half a mile west of Buriton Church, thence by an imaginary straight line running due west to a point on Butser Hill about three quarters of a mile west of the Petersfield and Portsmouth high road; thence by an imaginary straight line running due south to a point on Oxenbourne Down about half a mile west of Bottom Inn, and thence by an imaginary straight line running in an easterly direction to Bottom Inn on the Petersfield and Portsmouth high road aforesaid.

SECOND SCHEDULE.

Training Ground of the Fifth Army Corps, consisting of the Areas herein-after described; that is to say,—

Area 1.—In the Counties of Wilts and Hants.

An area bounded by a line commencing at the bridge over the river Wiley at Quidhampton, and running in a southerly direction along the high road to

Toney Stratford, thence along a road running nearly due south to a point about half a mile south of Tide Farm at Rockborn Down, thence for a distance of about 3 miles along a road running in a north-easterly direction towards Newcourt Down, thence by an imaginary straight line running northward by Dogdean to the junction of the roads from Blandford and Netherhampton Racecourse to Salisbury at Harnham Hill, and thence by an imaginary straight line running in a north-westerly direction to the bridge over the river Wiley at Quidhampton aforesaid.

Area 2.—In the County of Wilts.

An area bounded by a line commencing at the point where the Salisbury and Westbury branch of the Great Western Railway crosses the river Wiley near Codford St. Peter about three quarters of a mile south-east of Codford Station, and running in an easterly direction along the river Wiley to the point at which the Chitterne brook flows into it; thence along the Chitterne brook in a north-easterly direction to Chitterne St. Mary, thence in a south-easterly direction along the high road from Chitterne St. Mary to Maddington to a point about a mile south-east of Chitterne St. Mary; thence by an imaginary straight line running in a south-easterly direction to the point at which the high-road from Wiley to Amesbury crosses the Winterbourn stream at Winterbourn Stoke; thence in a southerly direction along the Winterbourn stream to the point at which the said stream falls into the river Wiley near Stapleford; thence by an imaginary straight line running in a south-westerly direction until it cuts the Salisbury and Westbury branch of the Great Western Railway at Little Langford; and thence in a north-westerly direction along the said railway to the point at which it crosses the river Wiley near Codford St. Peter aforesaid.

Area 3.—In the County of Gloucester.

An area bounded by a line commencing at the Stroud Station of the Great Western Railway, and running in a southerly direction along the high road from Stroud by King's Court and Dunkirk Mills to Nailsworth; thence by an imaginary straight line running in a north-easterly direction to Minchin Hampton Church; thence by an imaginary straight line running in a northerly direction to Brinscomb Station on the Great Western Railway; and thence along the said railway in a north-westerly direction to Stroud Station aforesaid.

Area 4.—In the County of Somerset.

An area bounded by a line commencing at Corton Denham Church, and running in an imaginary straight line in an easterly direction to Charleton Horethorne Church; thence along the high road southwards to Milborne Week; thence in a south-westerly direction along the high road to the village of Pointington; and thence in a westerly and northerly direction along the high road by Holway and Stafford Green to Corton Denham Church aforesaid.

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BILL

To facilitate the assembling and training of certain Army Corps.

(*Prepared and brought in by Mr. Secretary Hardy, Mr. Stanley, and Mr. William Henry Smith.*)

Ordered, by The House of Commons, *to be Printed,* 1 *June* 1876.

[Bill 182.]

Under 3 *oz.*

Bankers' Books Evidence Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Interpretation clause.
3. Entries in books by affidavit admissible in evidence.
4. Originals need not be produced.
5. Proviso as to notice to parties in a suit.
6. Power under order of court to inspect books and take copies.
7. Judge may order that copies are not admissible.
8. Bank not compellable to produce books except in certain cases. Proviso as to attendance of clerks as witnesses.
9. Proof as to status of bank.

A

B I L L

TO

Amend the Law with reference to Bankers' Books Evidence. A.D. 1876.

WHEREAS serious inconvenience has been occasioned to bankers in England and Wales and also to the public, by reason of the ledgers and other account books having been removed from the banks for the purpose of being produced in legal proceedings throughout England and Wales:

And whereas it is expedient to facilitate the proof of the transactions recorded in such ledgers and account books:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Bankers Books Evidence Act, 1876. Short title.

2. The work "bank" in this Act shall mean any person or persons, partnership or company, carrying on the business of bankers in England or Wales, and who at the commencement of each year shall have made their return to the Commissioners of Stamps and Taxes, under the twenty-first section of the thirty-second chapter of the statutes passed in the session of Parliament holden in the seventh and eighth years of the reign of Her present Majesty. Interpretation clause. "Bank."

The words "legal proceedings" in this Act shall include all proceedings, whether preliminary or final, in courts of justice in England or Wales, both criminal and civil, legal and equitable, and shall include all proceedings, whether preliminary or final, by way of arbitration, examination of witnesses, assessment of damages, compensation, or otherwise, in which there is power to administer an oath. The words "legal proceedings" in this Act shall also include all legal proceedings in Scotland and Ireland, in which there is power to issue writs of subpœna, or subpœna duces tecum, or other process on persons in England or Wales, to compel their attendance at such legal proceedings in Scotland or Ireland. "Legal proceedings."

A.D. 1876.

"The court."

The words "the court" in this Act shall mean the court, judge, magistrate, sheriff, arbitrator, or other person authorised to preside over the said legal proceedings for the time being, and shall include all persons, judges, or officers authorised to preside over or to exercise judicial control over the said legal proceedings or the procedure or any steps therein.

Entries in books by affidavit admissible in evidence.

3. From and after the commencement of this Act the entries in ledgers, day books, cash books, and other account books of any bank shall be admissible in all legal proceedings as primâ facie evidence of the matters, transactions, and accounts recorded therein on proof being given by the affidavit in writing of one of the partners, managers, or officers of such bank, or by other evidence that such ledgers, day books, cash books, or other account books are or have been the ordinary books of such bank, and that the said entries have been made in usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank.

Originals need not be produced.

4. Copies of all entries in any ledgers, day books, cash books, or other account books used by any such bank may be proved in all legal proceedings as evidence of such entries without production of the originals, by means of the affidavit of a person who has examined the same, stating the fact of said examination, and that the copies sought to be put in evidence are correct.

Proviso as to notice to parties in a suit.

5. Provided always, that no ledger, day book, cash book, or other account book of any such bank, and no copies of entries therein contained, shall be adduced or received in evidence under this Act, unless five days notice in writing, or such other notice as may be ordered by the court, containing a copy of the entries proposed to be adduced and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence to the other party or parties to the said legal proceeding, and that such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part.

Power under order of court to inspect books and take copies.

6. On the application of any party to any legal proceedings who has received such notice a judge of one of the superior courts at Westminster may order that such party be at liberty to inspect and to take copies of any entry or entries in the ledger, day books, cash books, or other account books of any such bank relating to the matters in question in such legal proceedings, and such orders may be made by such judge at his discretion either with or without

summoning before him such bank or the other party or parties to such legal proceedings. A.D. 1876.

Judge may order that copies are not admissible.

7. On the application of any party to any legal proceedings who has received notice a judge of one of the superior courts at Westminster may order that such entries and copies mentioned in the said notice shall not be admissable as evidence of the matters, transactions, and accounts recorded in such ledgers, day books, cash books, and other account books.

Bank not compellable to produce books except in certain cases.

8. No bank shall be compellable to produce the ledgers, day books, cash books, or other account books of such bank in any legal proceedings by means of a writ of subpœna duces tecum or any other process whatever, unless the court orders that such ledgers, day books, cash books, or other account books should be produced at such legal proceedings.

Proviso as to attendance of clerks as witnesses.

Provided always, that if such bank be a party to any legal proceedings, the court shall have the power to make an order that a clerk or clerks or other person or persons in the employment of the said bank, shall attend such legal proceedings for the purpose of being examined or cross-examined about such transactions, and that in default of the attendance of such clerk or clerks or other person or persons, neither the said books, nor the extracts, nor copies of the same shall be received in evidence under this Act in such legal proceedings.

Proof as to status of bank.

9. The fact of any such bank having duly made their return to the Commissioners of Stamps and Taxes may be proved in any legal proceedings; a copy of such return, verified by the affidavit in writing of one of the partners, or of the manager, or of one of the officers of such bank, or by the production of a copy of a newspaper containing a copy of such return, and published in such newspaper by the said Commissioners of Stamps and Taxes.

dence.

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BILL

To amend the Law with reference to Bankers' Books Evidence.

(*Prepared and brought in by Sir John Lubbock, Mr. Backhouse, Mr. Sampson Lloyd, and Mr. Watkin Williams.*)

Ordered, by The House of Commons, *to be Printed*, 29 *May* 1876.

[Bill 171.]

Under 1 *oz.*

Bankers' Books Evidence Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Interpretation clause.
3. Entries in books by affidavit admissible in evidence.
4. Originals need not be produced.
5. Proviso as to notice to parties in a suit.
6. Power under order of court to inspect books and take copies.
7. Judge may order that copies are not admissible.
8. Bank not compellable to produce books except in certain cases.
9. Proof as to status of bank.

A

BILL

[AS AMENDED IN COMMITTEE]

TO

Amend the Law with reference to Bankers' Books Evidence. A.D. 1876.

WHEREAS serious inconvenience has been occasioned to bankers in England and Wales and also to the public, by reason of the ledgers and other account books having been removed from the banks for the purpose of being produced in legal proceedings throughout England and Wales:

And whereas it is expedient to facilitate the proof of the transactions recorded in such ledgers and account books:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. **1.** This Act may be cited for all purposes as the Bankers Books Evidence Act, 1876.

Interpretation clause. "Bank." **2.** The work "bank" in this Act shall mean any person or persons, partnership or company, carrying on the business of bankers in England or Wales, and who at the commencement of each year shall have made their return to the Commissioners of Inland Revenue, under the twenty-first section of the statutes passed in the session of Parliament holden in the seventh and eighth years of the reign of Her present Majesty, chapter thirty-two.

"Legal proceedings." The words "legal proceedings" in this Act shall include all proceedings, whether preliminary or final, in courts of justice in England or Wales, both criminal and civil, legal and equitable, and shall include all proceedings, whether preliminary or final, by way of arbitration, examination of witnesses, assessment of damages, compensation, or otherwise, in which there is power to administer an oath. The words "legal proceedings" in this Act shall also include all legal proceedings in Scotland and Ireland, in which there is power to issue writs of subpœna, or subpœna duces tecum, or other process on persons in England or Wales, to compel their attendance at such legal proceedings in Scotland or Ireland.

A.D. 1876.

"The court."

The words "the court" in this Act shall mean the court, judge, magistrate, sheriff, arbitrator, or other person authorised to preside over the said legal proceedings for the time being, and shall include all persons, judges, or officers authorised to preside over or to exercise judicial control over the said legal proceedings or the procedure or any steps therein.

Entries in books by affidavit admissible in evidence.

3. From and after the commencement of this Act the entries in ledgers, day books, cash books, and other account books of any bank shall be admissible in all legal proceedings as primâ facie evidence of the matters, transactions, and accounts recorded therein on proof being given by the affidavit in writing of one of the partners, managers, or officers of such bank, or by other evidence that such ledgers, day books, cash books, or other account books are or have been the ordinary books of such bank, and that the said entries have been made in usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank. Nothing in this clause contained shall apply to any legal proceeding to which any bank whose ledgers, day books, cash books, and other account books may be required to be produced in evidence shall be a party.

Originals need not be produced.

4. Copies of all entries in any ledgers, day books, cash books, or other account books used by any such bank may be proved in all legal proceedings as evidence of such entries without production of the originals, by means of the affidavit of a person who has examined the same, stating the fact of said examination, and that the copies sought to be put in evidence are correct.

Proviso as to notice to parties in a suit.

5. Provided always, that no ledger, day book, cash book, or other account book of any such bank, and no copies of entries therein contained, shall be adduced or received in evidence under this Act, unless five days notice in writing, or such other notice as may be ordered by the court, containing a copy of the entries proposed to be adduced and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence to the other party or parties to the said legal proceeding, and that such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part.

Power under order of court to inspect books and take copies.

6. On the application of any party to any legal proceedings who has received such notice a judge of one of Her Majesty's High Court of Justice may order that such party be at liberty to inspect and to take copies of any entry or entries in the ledger, day books, cash books, or other account books of any such bank relating to the

matters in question in such legal proceedings, and such orders may be made by such judge at his discretion either with or without summoning before him such bank or the other party or parties to such legal proceedings.

Judge may order that copies are not admissible.

7. On the application of any party to any legal proceedings who has received notice a judge of one of Her Majesty's High Court of Justice may order that such entries and copies mentioned in the said notice shall not be admissible as evidence of the matters, transactions, and accounts recorded in such ledgers, day books, cash books, and other account books.

Bank not compellable to produce books except in certain cases.

8. No bank shall be compellable to produce the ledgers, day books, cash books, or other account books of such bank in any legal proceedings, unless a judge of Her Majesty's High Court of Justice specially orders that such ledgers, day books, cash books, or other account books should be produced at such legal proceedings.

Proof as to status of bank.

9. The fact of any such bank having duly made their return to the Commissioners of Inland Revenue may be proved in any legal proceedings by production of a copy of such return, verified as having been duly made by the affidavit in writing of one of the partners, or of the manager, or of one of the officers of such bank, or by the production of a copy of a newspaper purporting to contain a copy of such return, published in such newspaper by the said Commissioners of Inland Revenue.

dence.

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BILL

[AS AMENDED IN COMMITTEE]

To amend the Law with reference to Bankers' Books Evidence.

(*Prepared and brought in by Sir John Lubbock, Mr. Backhouse, Mr. Sampson Lloyd, and Mr. Watkin Williams.*)

Ordered, by The House of Commons, *to be Printed,* 22 *June* 1876.

[Bill 205.]

Under 1 *oz.*

Banns of Marriage (Scotland) Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Interpretation of terms.
2. Short title.
3. Commencement of Act.
4. Repeal of existing law as to proclamation of banns.
5. Registrars certificates to be equivalent to certificates of proclamation of banns under the repealed law.
6. Notice of intended marriage to be given to registrars.
7. Duties of registrars on receipt of a notice of marriage.
8. Registrar to grant certificate.
9. Provisions as to objections to intended marriages.
10. Licenses by the Registrar General authorised in certain cases.
11. The schedules to be part of the Act.
12. Celebration of a regular marriage otherwise than as authorised by this Act to be an offence.
13. Issuing of a certificate otherwise than in terms of this Act to be an offence punishable by imprisonment and loss of office.
14. False declarations, &c. under this Act to be punished as perjury.
15. Registrars to be provided with books, &c.
16. Cost of publication regulated.
17. Parties may sign by a mark before witnesses.

SCHEDULES.

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B I L L

TO

Abolish the system of proclaiming Banns of Marriage presently in force in Scotland, and to make provision for the due Publication of such Banns in Scotland. A.D. 1876.

WHEREAS it is expedient to abolish the system of proclaiming banns of marriage presently in force in Scotland, and to make better provision for giving publicity to the intentions of persons about to contract marriage in Scotland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act— Interpretation of terms.

(1.) "Registrar" means the registrar of births, deaths, and marriages for a registration district under the Act of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter eighty, intituled "An Act to "provide for the better Registration of Births, Deaths, and "Marriages in Scotland," and the Acts amending the same:

(2.) "Registrar General" means the registrar general of births, deaths, and marriages in Scotland appointed under the said Act of the seventeenth and eighteenth years of the reign of Her present Majesty, and the Acts amending the same.

2. This Act may be cited for all purposes as "The Banns of Marriage (Scotland) Act, 1876." Short title.

3. This Act shall commence and come into operation *on the first day of October eighteen hundred and seventy-six*, which date is herein-after in this Act referred to at the commencement of the Act. Commencement of Act.

A.D. 1876.

Repeal of existing law as to proclamation of banns.

4. All laws, statutes, and usages, so far as they require proclamation of banns of marriage between persons intending to contract marriage in Scotland to be made in any parish church or other church in Scotland as a condition of the celebration or registration of a regular marriage between such persons, and so far as they attach any punishment or penalty to the act of contracting or witnessing or celebrating a marriage not preceded by proclamation of banns of marriage, shall be and the same are, subject to the provisions of this Act, hereby repealed.

Registrars certificates to be equivalent to certificates of proclamation of banns under the repealed law.

5. *From and after the commencement of this Act* the publication of notices of marriage in the manner required by this Act shall come in lieu of the proclamation of banns of marriage as a requisite preliminary of a regular marriage in Scotland, and a registrar's certificate of such publication having been duly made, obtained in the manner provided by this Act, shall come in lieu of and be for all purposes of law of the same force and effect as a certificate granted by the session clerk, or other the proper officer for granting the same, of the due proclamation of banns of marriage under the law in force before the commencement of this Act.

The provisions contained in this section shall not be construed to limit the repeals contained in the preceding section.

Notice of intended marriage to be given to registrars.

6. In every case of persons residing in Scotland intending that a regular marriage shall be celebrated or registered between them in Scotland, each of such persons shall, on or about the same date, give notice of the intended marriage to the registrar of the registration district in which he or she resides, in the form set forth in the Schedule A. annexed to this Act.

Duties of registrars on receipt of a notice of marriage.

7. On the receipt of a notice of an intended marriage the registrar, being satisfied that the same is conformable to the requirements of this Act, shall forthwith enter the particulars set forth in the notice in "The Marriage Notice Book" herein-after mentioned, and shall on the same day post or put up in a conspicuous and accessible place on the door or outer wall of his office, a public notice of the intended marriage, in the form set forth in the Schedule B. annexed to this Act, and shall keep the same so posted or put up for seven lawful days thereafter.

Registrar to grant certificate.

8. The registrar, having complied with the requirements of this Act, shall, on the expiration of *seven* lawful days after the receipt of the notice of an intended marriage, in the event of no objection to the marriage appearing on the face of such notice, or being lodged with him as herein-after provided for, grant to the person who gave the notice a certificate of the due publication thereof,

hereafter in this Act referred to as the registrar's certificate, in one of the forms set forth in Schedule C. annexed to this Act. A.D. 1876.

Provisions as to objections to intended marriages.

9. The registrar shall disregard all objections to an intended marriage not appearing on the face of the notice, unless—

1. They shall be stated within *seven* lawful days of the date of the notice of such marriage, or prior to the issuing of the certificate of publication:
2. They shall be stated in writing subscribed by the person taking the same:
3. The person taking the same shall appear personally to lodge the same with the registrar, and shall in his presence make and subscribe a declaration in the form set forth in Schedule D. annexed to this Act, which the registrar shall endorse on the written statement of objections.

And with regard to objections, timely and duly stated as above provided, the following provisions shall have effect; that is to say,

(*a.*) Where the objection is that the persons intending to contract marriage, or either of them, had not resided the prescribed time within the registration districts or district before giving notice; or that such persons are wrongly named or described in the notice, or that either of them is so wrongly named or described; or that the notice is otherwise inaccurate in any detail; and generally where the objection does not point out a legal impediment to a marriage between such persons, but relates to some formality or statutory requirement merely, the registrar shall suspend the issuing of his certificate, and shall consider the objection, and make such inquiry thereanent as he shall see fit, and report thereon as soon as may be to the Registrar General, who shall, on such report, direct the notice to be amended and a certificate to be granted thereon without republication thereof, if he shall see fit; or to be cancelled, if he shall see fit, in which case it shall be competent for the persons intending to contract marriage to give notice *de novo* of their intended marriage:

(*b.*) Where the objection is that the persons intending to intermarry are within the forbidden degrees of consanguinity or affinity, or are both or either of them already married, or are both or either of them not of a marriageable age, or are from any other legal incapacity disqualified to give such consent as is necessary for marriage; and generally where the objection points out a legal impediment to a

A.D. 1876.

marriage between them, the registrar shall suspend the issuing of his certificate until such objection shall be disposed of by a judgment of a competent court of law holding the same disproved or obviated, and until there shall be produced to him a certified copy of such judgment:

(*c.*) Where the objection comes within the description of any of the objections mentioned in the immediately preceding sub-section, the registrar of the district to whom such objection is first stated shall, on the request in writing of either of the persons intending to intermarry, transmit the notice of the intended marriage and the statement of the objection or objections, as the case may be, to one of the principal clerks of either division of the Court of Session, and such notice and statement shall thereupon constitute a depending summary process before such division, and be the closed record therein; and such division shall, on the motion of the person at whose request the transmission was made, order the objector to lead proof of the truth of his objection or objections, as the case may be, and appoint an early day for the leading of the same, and at the close of such proof, or should the objector fail to appear and lead proof, the judge appointed to try the case shall give judgment therein, and shall decern for the expenses of process in favour of the successful party against the other, and his judgment shall be final.

Licenses by the Registrar General authorised in certain cases.

10. Where one of the persons intending to contract marriage in Scotland is not resident in Scotland, and the other shall have obtained a registrar's certificate in terms of this Act, it shall be lawful for the Registrar General, on application made to him, to grant a license for the celebration and registration of a regular marriage between the said persons, if he shall be satisfied on inquiry, or by affidavits submitted to him along with the application, that there is no legal impediment to the marriage, and that it would be a serious inconvenience to the person who is not resident in Scotland to require him or her to reside in Scotland merely for the purpose of complying with the provisions of this Act; and every such license shall, for all purposes of law, be of the same force and effect as a registrar's certificate obtained under this Act.

There shall be paid to the Registrar General for every license granted under this section a fee of *one pound* sterling, which shall by him be paid to the account of any fund connected with his

department of which an annual account is required by law to be rendered to Parliament. A.D. 1876.

The schedules to be part of the Act.

11. The schedules to this Act, and all directions or requirements therein contained or specified or thereto appended, shall be of the same force and effect as if the same were enacted in the body of this Act.

Celebration of a regular marriage otherwise than as authorised by this Act to be an offence.

12. Whoever shall celebrate a marriage in Scotland with a religious ceremony, or, being the secretary of a synagogue of Jews duly authorised to register the marriages of Jews, or the registering officer of a body of Quakers, shall register a marriage as a regular marriage in Scotland, without having produced or exhibited to him the registrar's certificates authorising the same, or a registrar's certificate along with such a license or other certificate as is by this Act declared equivalent to a registrar's certificate, shall be guilty of an offence under this Act, and shall, on conviction thereof, be liable to a penalty not exceeding *fifty pounds*.

Offences under this section may be prosecuted under the provisions of the Summary Procedure Act, 1864, but only at the instance of the Registrar General.

Issuing of a certificate otherwise than in terms of this Act to be an offence punishable by imprisonment and loss of office.

13. A registrar who shall knowingly or wilfully grant a registrar's certificate to any person without complying with all the requirements of this Act in regard to the conditions on which and the time when the same may be granted, shall be guilty of an offence under this Act, and shall on conviction be liable to a fine not exceeding *fifty pounds* or to be imprisoned for a period not exceeding *three months*, and to be deprived of his office.

Offences under this section may be prosecuted under the provisions of the Summary Procedure Act, 1864, at the instance of the Registrar General or of the procurator fiscal of the county.

False declarations, &c. under this Act to be punished as perjury.

14. Every person who shall knowingly or wilfully make or sign any false declaration, or who shall sign any false notice for the purpose of procuring any marriage under the provisions of this Act, or who shall knowingly or wilfully state any false objection to a marriage, or make any false declaration relative to an objection to a marriage under the provisions of this Act, shall be deemed in law to be guilty of the crime of perjury, and shall on conviction suffer *the penalties attached by law to the crime of perjury*.

Registrars to be provided with books, &c.

15. The Registrar General shall, on or before the commencement of this Act, and thereafter from time to time as may be necessary, furnish or cause to be furnished to every registrar of a registration

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district in Scotland,—(1) a book to be called "The Marriage Notice Book," prepared in such form as the Registrar General, having regard to the form of notice prescribed by this Act, shall see fit; and (2) such a number as he shall think sufficient and necessary of forms of notice and of public notice of intended marriages, and of certificates and of all other forms necessary to be supplied to the registrars for the purposes of this Act, printed on paper of such shape, size, and quality as the Registrar General shall think most convenient for the purposes of this Act and the service of his department.

Cost of publication regulated.

16. The several registrars shall be bound to furnish forms of notice of intended marriages to all persons applying for the same at one penny apiece, and a party giving notice of an intended marriage shall make the following and no other payments to the registrar for the necessary forms and for his services in relation to such notice and the granting of his certificate; that is to say,

	s.	*d.*
1. For each printed form necessary to be given out or used by the registrar in relation to such a notice -	0	0½
2. For the certificate of due publication of the intended marriage and for the registrar's services thereanent -	2	0

Provided that where both parties reside in the same registration district the fee for the certificate and for services in relation to the publication of the marriage shall be only *one shilling* for each of the parties.

Parties may sign by a mark before witnesses.

17. In case of inability to write of any person whose signature is required or necessary under this Act, it shall be lawful for such person to adhibit a cross or other mark, and being adhibited in presence of the registrar or two witnesses, who shall adhibit their designations to their signatures, such mark shall be in all respects as binding and effectual as the signature of such person, if capable of writing, would have been.

SCHEDULE A.

NOTICE of MARRIAGE.—(Pursuant to "The Banns of Marriage (Scotland), Act, 1876.")

To the Registrar of the district of in the county of

I [*here insert the name of the person giving notice*] give you notice that I and the other person herein named are about to contract marriage; (that is to say,)

Name and Surname.	Condition.†	Rank or Profession.	Age.‡	Dwelling Place.	District and County in which Parties respectively dwell.

And I solemnly declare that I believe there is no impediment of kinship or affinity or of age or other lawful hindrance to the said marriage, and that I have had my usual place of abode and residence for the space of fourteen days immediately preceding the date of this notice within the above-mentioned district of

And this I declare, knowing that if the declaration is false I expose myself to suffering the penalties of perjury. In witness whereof I have hereunto set and subscribed my hand, this day of 18 [*Signature.*]

Subscribed and declared by the above-named, in the presence of us, the undersigned householders in the above-named district, who declare tha we believe the statements contained in this notice to be true.

A.B. [*name and designation*], witness.
C.D. [*name and designation*], witness.

† State whether the person is a bachelor or spinster, widower or widow.
‡ State whether the person, if a male, is over or under 14 years of age; if a female, is over or under twelve years of age.

N.B.—The Schedule must set forth all the particulars indicated in regard, first, to the person giving the notice, and, second, to the person with whom the person giving the notice intends to contract marriage.

SCHEDULE B.

Public Notice.

(*Pursuant to "The Banns of Marriage (Scotland) Act, 1876."*)

Notice has this day been received at this office of marriage as intended to be celebrated between the following persons; that is to say,

Between I.	*A.B.* [*here give name and surname, condition, rank, or profession, and place of residence of intending husband*], and *C.D.* [*here give name and surname, condition, rank, or profession, and place of residence of intending wife*].
and	
Between II.	*E.F.* [*here insert same particulars as above*], and *G.H.* [*here insert same particulars as above*].*

All objections to certificates being granted authorising the celebration of these marriages, or any of them, [*or* of this marriage, *when there is only one notice,*] must be lodged with the registrar in writing within seven days from this date by the objector personally appearing to declare to the truth thereof.

(Signed) *M.N.*, Registrar.

[*Date of Notice.*]

* One public notice in this form may be made to include all the notices of marriage received at the office in the same day.

SCHEDULE C.

Registrar's Certificate.

(*Pursuant to "The Banns of Marriage (Scotland) Act, 1876."*)

Form No. 1 [*applicable to the case of the parties residing in different registration districts*].

I [*M.N.*] Registrar of hereby certify that on the day of 18 *A.B.* [*here give name, surname, condition, rank, or profession, and place of residence of A.B.*, duly gave notice to me of his [*or* her] intended

marriage to *C.D.* [*give name, surname, condition, &c., of C.D.*], that all the requirements of law in respect of such notice, so far as the said *A.B.* is concerned, have been complied with, and that a regular marriage between the said *A.B.* and *C.D.* may now be celebrated in any part of Scotland, on the production on the part of the said *C.D.* of a similar certificate from the registrar of [*here fill in the registration district in which C.D. has given notice*], or of a licence from the Registrar General granted in terms of the said "Banns of Marriage (Scotland) Act," and be registered in terms of law. A.D. 1876.

Certified by me the said *M.N.*, this day of .

(Signed) *M.N.*, Registrar.

Form No. 2 [*applicable to the case of the parties residing in the same registration district*].

I [*M.N.*] Registrar of hereby certify that on the day of 18 *A.B.* [*here give name, surname, condition, rank, or profession, and place of residence of A.B.*,] and on the day of 18 , *C.D.* [*here give name, surname, condition, rank, or profession, and place of residence of C.D.*] duly gave notice to me of their intention to intermarry, and that all the requirements of law in respect of such notices have been complied with, and that a regular marriage between the said *A.B.* and *C.D* may now be celebrated in any part of of Scotland, and registered in terms of law.

Certified by me the said *M.N.*, this day of .

(Signed) *M.N.*, Registrar.

SCHEDULE D.

I hereby solemnly declare that the facts as stated by me in the written statement of objections to the marriage intended between *A.B.* and *C.D.*, on which this declaration is indorsed, are true to the best of my knowledge and belief, and I make this declaration knowing that if the declaration is false I expose myself to suffering the penalties of perjury.

(Signed by) *P.Q.*, Objector.

I certify that this declaration was made before me and subcribed in my presence this day of 18 in my office.

M.N., Registrar.

(Scotland).

A

BILL

To abolish the system of proclaiming Banns of Marriage presently in force in Scotland, and to make provision for the due Publication of such Banns in Scotland.

(*Prepared and brought in by Dr. Cameron, Mr. Baxter, Mr. Barclay, Mr. M'Laren, and Mr. Edward Jenkins.*)

Ordered, by The House of Commons, *to be Printed* 9 *February* 1876.

[Bill 27.]

Under 2 *oz.*

A

B I L L

TO

Enable Barristers-at-Law and Advocates to recover their Fees, and to render them liable at Law to persons employing them. A.D. 1876.

WHEREAS persons having the degree of barrister-at-law or advocate are not now by law entitled to recover their fees in any action or legal proceeding, and are not now by law liable in any action or legal proceeding in respect of employment undertaken by them in their professional character:

And whereas it is expedient to amend the law in order that barristers-at-law and advocates may enjoy the like rights and liabilities to those enjoyed by others of Her Majesty's subjects:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Barristers, &c. to be entitled to sue for their fees.

1. Every person having the degree of barrister-at-law in England, the degree of advocate in Scotland, or the degree of barrister-at-law in Ireland, may bring and maintain actions, suits, and legal proceedings for, and shall be entitled to recover his fees and reward in respect of any employment accepted or undertaken by him in his professional character from the solicitor, writer to the signet, or attorney-at-law, as the case may be, and also from the ultimate client who shall employ him in such professional character for any purpose, in the same manner, in the same court or courts, and in all respects whatsoever as if the said employment were not an employment in such professional character, any law or custom in anywise to the contrary notwithstanding.

Barristers, &c. to be liable at law in respect of any employment in their professional character.

2. Every person having the degree of barrister-at-law in England, the degree of advocate in Scotland, or the degree of barrister-at-law in Ireland, shall be liable at law in respect of every employment accepted or undertaken by him in his professional character, and may be sued for damages in respect

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of any breach or breaches, grievance or grievances, arising out of such employment, in the same manner, in the same court or courts, and in all respects whatsoever as if said employment were not an employment in such professional character, any law or custom in anywise to the contrary notwithstanding.

Barristers, &c. accepting briefs, &c. to be deemed to undertake employment.

3. Every barrister-at-law or advocate who shall accept from any client a retainer, brief, instructions, case for opinion, or other papers marked or endorsed with any fee payable to such barrister-at-law or advocate, shall, in every action, suit, or legal proceeding and otherwise, be deemed and held to accept and undertake employment within the meaning of this Act; and it shall be competent to any party to any action, suit, or legal proceeding to bring forward any other evidence, facts, or circumstances in order to show an employment within the meaning of this Act, such evidence, facts, and circumstances being hereby declared to be in any action, suit, or legal proceeding for the consideration and determination of the jury or other proper tribunal (as the case may be) which shall have according to law the duty of finding and determining the facts.

Short title.

4. This Act may be cited for all purposes as the Barristers Fees Act, 1876.

Barristers' Fees.

A

BILL

To enable Barristers-at-Law and Advocates to recover their Fees, and to render them liable at Law to persons employing them.

(*Prepared and brought in by Mr. Norwood, Mr. Leeman, Mr. Charles Lewis, Mr. Sampson Lloyd, and Mr. Anderson.*)

Ordered, by The House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 18.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law in respect of granting Licenses for the sale of Beer, Ale, and Porter in Ireland. A.D. 1876.

WHEREAS the existence in Ireland of certain houses (commonly called beerhouses) licensed for the sale of beer, ale, or porter, to be drunk or consumed elsewhere than on the premises, has been found to conduce to the spread of drunkenness and to be attended with other evil consequences:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Tempora, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. "Beer Licenses Regulation (Ireland) Act, 1876."

1. This Act may be cited for all purposes as "The Beer Licenses Regulation (Ireland) Act, 1876."

No licenses, transfers, or renewals for sale of beer, &c. by retail for consumption elsewhere than on premises to be granted in respect of premises rated at less than 10*l.*, nor in cities, &c. with a population of exceeding 10,000, unless premises are rated at 20*l.*

2. *From and after the first day of January one thousand eight hundred and seventy-seven* it shall not be lawful for any officer of excise in Ireland to grant a license or transfer of a license for the sale of beer, ale, or porter by retail to be drunk or consumed elsewhere than on the premises where sold, or to grant a renewal of any such license as aforesaid to any person whomsoever, in respect of premises which, with premises belonging thereto and occupied therewith, shall be rated for the relief of the poor for a sum less than *ten pounds*, or for any premises situate in any city, borough, town, or place containing a population exceeding *ten thousand*, according to the then last parliamentary census, if such premises with the premises belonging thereto and occupied therewith shall be rated for the relief of the poor in a sum less than *twenty pounds*.

For purposes of Act any person selling less quantity than 4½ gallons

3. For the purposes of this Act any person who shall sell beer, ale, or porter in any less quantity than four gallons and a half,

measure or two dozen quart bottles to be deemed to sell by retail.

imperial standard measure, or in any less quantity than two dozen reputed quart bottles at one time shall be deemed to sell by retail.

Act to apply to Ireland only.

4. This Act shall apply to Ireland only.

Beer Licenses (Ireland).

A

BILL

To amend the Law in respect of granting Licenses for the sale of Beer, Ale, and Porter in Ireland.

(*Prepared and brought in by Mr. Meldon, Mr. Charles Lewis, and Mr. Whitworth.*)

Ordered, by The House of Commons, *to be Printed*, 23 *March* 1876.

[Bill 113.]

Under 1 *oz.*

Bishopric of Truro Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.

Bishopric of Truro.

2. Public contributions for Truro Bishopric endowment fund.
3. Transfer of endowment from Bishopric of Exeter to Bishopric of Truro.
4. Establishment of Bishopric of Truro on provision of sufficient endowment.
5. The number of bishops sitting in Parliament not to be increased.

Supplemental Provisions.

6. Appointment of Bishop of Truro.
7. Scheme of Ecclesiastical Commissioners approved by Order in Council as to courts, officers, archdeaconries, and other incidental arrangements for constituting the Bishopric of Truro.
8. Trusts of Truro Bishopric endowment fund.
9. Validity and publication of Orders in Council.

Saving Clauses.

10. Saving as to service as incumbent or curate in transferred parishes.
11. Common fund of Commissioners not applicable to endowment.

A

B I L L

TO

Provide for the Foundation of a new Bishopric out of a part of the diocese of Exeter. A.D. 1876.

WHEREAS it is expedient to provide increased episcopal supervision for the Archdeaconry of Cornwall in the diocese of Exeter, and with a view thereto, an arrangement is proposed whereby a bishopric to be called the Bishopric of Truro will be formed, to consist of the Archdeaconry of Cornwall:

And whereas the Bishop of Exeter, with a view to further such arrangement, has assented to the transfer of such portion of the endowment of his bishopric as will yield a net annual sum of eight hundred pounds:

And whereas it is expedient to provide for the carrying of the above-mentioned arrangement into effect:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Bishopric of Truro Act, 1876. Short title.

Bishopric of Truro.

2. The Ecclesiastical Commissioners for England (in this Act referred to as the Ecclesiastical Commissioners) shall receive all contributions which may be made by the public for the purposes of the endowment of the Bishopric of Truro, and carry the amount of such contributions to a fund to be called the Truro Bishopric endowment fund. Public contributions for Truro Bishopric endowment fund.

3. Subject to the rights of the person who is at the passing of this Act Bishop of Exeter, there shall be transferred to the Truro Bishopric endowment fund, upon the foundation of the Bishopric of Truro in pursuance of this Act, such portion of the endowment or income of the Bishopric of Exeter as will, irrespective Transfer of endowment from Bishopric of Exeter to Bishopric of Truro.

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of tenths and first fruits, yield a net annual sum of *eight hundred pounds*.

Establishment of Bishopric of Truro on provision of sufficient endowment.

4. Whenever the Ecclesiastical Commissioners certify to Her Majesty under their common seal either—

(1.) That the net income of the Truro Bishopric endowment fund is not less than *three thousand pounds* a year; or

(2.) That the net income of the Truro Bishopric endowment fund is not less than *two thousand five hundred pounds* a year, and that contributions to that fund sufficient to raise the net income within *five* years from the date of the certificate up to *three thousand pounds* a year have been guaranteed to the satisfaction of the Commissioners;

Her Majesty by Order in Council may found a new Bishopric of Truro, with a diocese consisting of the Archdeaconry of Cornwall or of such part thereof as to Her Majesty may seem meet, and may assign to such bishopric as a cathedral church the parish church of St. Mary, in Truro, in the county of Cornwall, but subject to the rights of the incumbent of such church, and may declare the time at which such Order founding the bishopric is to come into operation.

Her Majesty by the same or any other Order in Council may constitute the Bishop of Truro a body corporate, and may invest the bishop with all such rights, privileges, and jurisdictions as are now possessed by any other bishop in England, or such of them as to Her Majesty may seem meet, and may subject such bishop to the metropolitan jurisdiction of the Archbishop of Canterbury.

The net income of the Truro Bishopric endowment fund for the purposes of this section shall be estimated exclusive of the value of any episcopal residence which may have been provided, or any sum appropriated for the purpose of providing such episcopal residence, but inclusive of any sum which will be derived from the Bishopric of Exeter immediately upon the foundation of the Bishopric of Truro, and in such estimate no deduction shall be made from the last-mentioned sum on account of any payment for tenths or first fruits.

The number of bishops sitting in Parliament not to be increased.

5. The number of Lords Spiritual sitting and voting as Lords of Parliament shall not be increased by the foundation of the Bishopric of Truro, and whenever there is a vacancy among such Lords Spiritual by the avoidance of any of the sees of Canterbury, York, London, Durham, or Winchester, such vacancy shall be supplied by the issue of a writ of summons to the bishop acceding to the see so avoided, and if such vacancy is caused by the avoidance of any see other than one of the five sees aforesaid, such vacancy shall be supplied by the issue of a writ of summons to that

bishop of a see in England who having been longest appointed bishop of a see in England has not previously become entitled to such writ; A.D. 1876.

Provided, that where a bishop is translated from one see to another, and was at the date of his translation actually sitting as a Lord of Parliament, he shall not thereupon lose his right to receive a writ of summons to Parliament.

Supplemental Provisions.

Appointment of Bishop of Truro.

6. So long as there is not a dean and chapter of Truro, Her Majesty may appoint the Bishop of Truro by letters patent, and such letters patent shall be made in the like manner, so far as circumstances admit, and have the same effect as letters patent of Her Majesty nominating a bishop in the case of a bishopric where a dean and chapter have not proceeded to elect a bishop in accordance with the license and letters missive of Her Majesty.

From and after the foundation of such dean and chapter a vacancy in the Bishopric of Truro shall be filled in the same manner as a vacancy in any other bishopric in England.

Scheme of Ecclesiastical Commissioners approved by Order in Council as to courts, officers, archdeaconries, and other incidental arrangements for constituting the Bishopric of Truro.

7. Whenever such certificate as is in this Act mentioned has been given by the Ecclesiastical Commissioners with respect to the net income produced by the Truro Bishopric endowment fund, the Ecclesiastical Commissioners shall lay before Her Majesty a scheme for all or any of the following matters; namely,—

(1.) For assigning to the Bishop of Truro all or any such courts, officers, and jurisdiction belonging to any bishop in England, and not otherwise assigned by this Act or any Order in Council made thereunder, as it may be thought expedient to assign, and for dispensing with the confirmation or other agency of a dean and chapter in relation to any matters in which such confirmation or agency would otherwise be required, and for the custody of the spiritualities during a vacancy in the see by the Archbishop of Canterbury; and

(2.) For making such arrangements as may be thought expedient, by the creation and endowment of new archdeaconries or otherwise, for the archidiaconal supervision of the parishes affected by the foundation of the bishopric; and for transferring the archidiaconal dignity of Cornwall from the cathedral church of Exeter to the cathedral church of Truro; and

(3.) For giving the Bishop of Truro the patronage of every

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ecclesiastical dignity and benefice situate in his diocese the patronage of which is, at the date of the scheme, vested in the Bishop of Exeter; and

(4.) For transferring the portion of the endowment or income of the Bishopric of Exeter directed by this Act to be transferred to the Truro Bishopric endowment fund, subject to the payment by the Bishop of Truro of a corresponding portion of the tenths and first fruits now payable by the Bishop of Exeter; and

(5.) For enabling any existing archdeacon in the diocese of Exeter to reside in any place in which he is residing at the date of the scheme, and for making such arrangements as may seem to the Ecclesiastical Commissioners requisite to preclude any officer holding office at the date of the passing of this Act from being prejudiced by this Act, or any Order in Council made thereunder; and

(6.) For founding honorary canonries in the cathedral church of Truro, with power to dispense with the consent of any dean and chapter so long as there is no such dean and chapter in existence at Truro; and to provide that any non-residentiary canons in the cathedral church of Exeter, who upon the foundation of the Bishopric of Truro may be holding benefices in the diocese of Truro, and consent to the transfer, shall be transferred to and become honorary canons in the cathedral church of Truro instead of being non-residentiary canons in the cathedral church of Exeter; and

(7.) For providing for the transfer, as soon as may be practicable, to the registrar or other officer of the diocese of Truro from the registrar or officer of the diocese of Exeter who may be in possession of the same, of all terriers, tithe apportionments, maps, plans, and other documents relating to the several parishes situate in the diocese of Truro; and

(8.) For making such other provisions and arrangements, whether similar or not to the foregoing, as may be necessary for carrying into complete effect this Act, or any Order in Council made thereunder.

Trusts of Truro Bishopric endowment fund.

8. The Truro Bishopric endowment fund shall be held by the Ecclesiastical Commissioners upon trust to provide a net annual

income not exceeding *four thousand two hundred pounds* a year and a residence for the Bishop of Truro, and subject as aforesaid upon trust for the foundation of a dean and chapter for the bishopric, in such manner as may be from time to time provided by Order in Council.

All annual income arising from the Truro Bishopric endowment fund shall, until the bishopric is founded, as provided by this Act, be invested and accumulated as part of the fund; but the Ecclesiastical Commissioners shall have full power to sell (discharged from all trusts), invest, manage, lease, and otherwise deal with the fund and the property in which it may for the time being be invested in such manner as they may deem most expedient for the purposes of their trust.

The Ecclesiastical Commissioners may invest the whole or any part of such endowment fund in the purchase of land, and may hold such land without any license in mortmain, and may from time to time, but after the appointment of a Bishop of Truro with the consent of the bishop for the time being, assign to such bishop and his successors, as an endowment for the bishopric, the lands so purchased, if convenient to be held by such bishopric: Provided that there shall not be assigned as an endowment to the said bishopric, exclusive of an episcopal residence, a greater extent of land than will, after deducting the costs of management, produce as nearly as may be a net annual income of *four thousand two hundred pounds*.

The endowment of a bishopric under this Act shall be deemed to be for all purposes subject to the same laws as the temporalities and endowment of any other bishopric in England.

Validity and publication of Orders in Council.

9. An Order in Council made in pursuance of this Act shall have effect as if it were enacted in this Act.

An Order in Council made in pursuance of this Act shall be published in the London Gazette and laid before both Houses of Parliament within one month after it is made if Parliament be then sitting, or if not, within one month after the next meeting of Parliament.

A scheme made in pursuance of this Act shall be of no effect until it has been approved by Order in Council.

Saving Clauses.

Saving as to service as incumbent or curate in transferred parishes.

10. The service of any person, either before or partly before and partly after the foundation of the Bishopric of Truro in pursuance of this Act, as incumbent or curate in any parish which, in pursuance

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of this Act, is constituted part of a different diocese from that of which it forms part at the passing of this Act, shall, for the purpose of qualifying such incumbent or curate to be presented or nominated to any benefice in the patronage of the chapter of any cathedral or collegiate church, be deemed to be service in the diocese in which such parish is situate at the time of the passing of this Act, or in the diocese in which such parish is situate at the date of the presentation or nomination.

Common fund of Commissioners not applicable to endowment.

11. Nothing in this Act shall authorise the Ecclesiastical Commissioners to apply any portion of their common fund towards the endowment of the Bishopric of Truro, or of the dean and chapter of such bishopric, save in so far as relates to any sum made payable by this Act out of the endowment or income of the Bishopric of Exeter.

A

B I L L

To provide for the Foundation of a new Bishopric out of a part of the diocese of Exeter.

(Prepared and brought in by Mr. Secretary Cross and Sir Henry Selwin-Ibbetson.)

Ordered, by The House of Commons, *to be Printed,* 8 *June* 1876.

[Bill 185.] *Under* 1 *oz.*

Bow Street Police Court (Site) Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Acquisition of site for, and erection of, police court and station at Bow Street.
3. Incorporation of Lands Clauses Consolidation Acts, 1845, 1860, and 1869.
4. Extinction of rights of way and other easements.
5. Exemption from Metropolitan Buildings Act.
6. Arrangement with Receiver of Metropolitan Police as to police station.
7. Substitution of new police court, police station, and offices for present police court and station.
8. Lands to continue subject to land tax.
9. Authentication of notices and making of contract.
10. Sales, &c. subject to 15 & 16 Vict. c. 28.
11. Expenses of Commissioners and disposition of moneys received under Act.
12. Saving for the lessors.
13. Saving as to Bow Street.

A

BILL

TO

Authorise the acquisition of a Site in Bow Street for the erection of a new Police Court and Police Station and offices. A.D. 1876.

WHEREAS it is expedient to erect a new police court and police station and offices on certain lands in Bow Street, in the parishes of St. Martin in the Fields and St. Paul, Covent Garden, in the county of Middlesex:

And whereas duplicate plans describing the situation of the said lands, with the houses and buildings thereon (in this Act referred to as the "prescribed lands"), with a book of reference thereto, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers thereof, have been deposited with the clerk of the peace for the county of Middlesex, at his office at the Sessions House, Clerkenwell, and at the office of the Metropolitan Board of Works, and with the vestry clerk of the parish of St. Martin in the Fields, at the Vestry Hall of the said parish, and with the clerk of the Strand District Board of Works:

And whereas an agreement dated the day of one thousand eight hundred and seventy-six has been made between the Most Noble Francis Charles Hastings, Duke of Bedford, and the trustees of the will of the late Most Noble Francis seventh Duke of Bedford (in this Act referred to as the lessors), of the one part, and the Commissioners of Her Majesty's Works and Public Buildings (in this Act referred to as the Commissioners of Works) of the other part, for the granting by the lessors, subject to the passing of this Act and the fulfilment of the conditions mentioned in the said agreement, to the Commissioners of Works of a lease of the prescribed lands, or of the greater part thereof, for the term of ninety-nine years, from the twenty-fifth day of December one thousand eight hundred and seventy-six:

A.D. 1876.

And whereas the estates and interests of persons, other than the lessors in the prescribed lands cannot be acquired without the authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Bow Street Police Court (Site) Act, 1876."

Acquisition of site for and erection of police court and station at Bow Street.

2. The Commissioners of Works may purchase, take, and use, as necessary for the public service, all or any of the prescribed lands, and may remove the buildings thereon and sell or dispose of the materials thereof, and erect thereon a police court and police station, and offices and buildings connected therewith, and make such approaches and widenings and alterations of thoroughfares, and do such other acts and things as may be deemed necessary or convenient for carrying this Act into effect.

Incorporation of Lands Clauses Consolidation Acts, 1845, 1860, and 1869.

3. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, in this Act referred to as the Lands Clauses Acts, shall be incorporated with this Act, with the exceptions and additions, and subject to the provisions herein-after contained; that is to say,

1. There shall not be incorporated with this Act sections one hundred and twenty-seven to one hundred and thirty-three, both inclusive, of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous land, and to making good land tax and poor's rate; or the provisions relating to access to the special Act; and
2. In the construction of the Lands Clauses Acts for the purposes of this Act the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the Commissioners of Works; and
3. The bond required by section eighty-five of the Lands Clauses Consolidation Act, 1845, shall be under the common seal of the Commissioners of Works, and shall be sufficient without the addition of the sureties in the said section mentioned; and
4. Where the person claiming compensation from the Commissioners of Works under this Act or the Lands Clauses Acts has no greater interest than as tenant for a year, or from year to year, in the lands in respect of which the compensation is claimed, such claim shall be determined in manner provided by section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845.

A.D. 1876.

Extinction of rights of way and other easements.

4. Upon the purchase or acquisition by the Commissioners of Works of the prescribed lands or any part thereof, or of the estates and interests therein of all persons other than the lessors, all rights of way and water, and rights of laying down or of continuing any pipes, sewers, or drains on, through, or under, and all other public or private easements or rights in or affecting such lands or the part thereof so purchased or acquired (whether absolutely or for a limited interest), shall be extinguished in perpetuity, and all the site and soil of such ways and the property in the pipes, sewers, or drains shall vest in the Commissioners of Works and their successors in fee simple, subject to the rights of the lessors under the said recited agreement, and subject to this provision, that all persons and bodies of persons, corporate and unincorporate, may recover from the Commissioners such compensation (if any) as they may be entitled to under the provisions of the Lands Clauses Acts, or any of them, for any rights or property of which they may be deprived in pursuance of this section, the amount of such compensation to be determined in manner provided by those Acts.

Exemption from Metropolitan Buildings Act.

5. All buildings erected on the prescribed lands by or under the direction of the Commissioners of Works shall be exempt from the operation of the Metropolitan Buildings Act, 1855.

Arrangement with Receiver of Metropolitan Police as to police station.

6. The Commissioners of Works may appropriate such part of the prescribed lands, and the buildings erected thereon, as they think fit for the purpose of a police station and offices and buildings connected therewith, and may assign, lease, or otherwise dispose of the same to the Receiver of the Metropolitan Police District.

Such portion of the expenses incurred by the Commissioners of Works under this Act as the Commissioners of Her Majesty's Treasury and one of Her Majesty's Principal Secretaries of State may determine to have been incurred for the purposes of the police station, and offices and buildings connected therewith, shall be repaid to the Commissioners of Works by the Receiver of the Metropolitan Police District, out of moneys in his hands as part of the expenses of the Metropolitan Police Force, and shall be so repaid by a capital sum in one payment, or in instalments, or by way of rent, or otherwise in such manner and at such times as may be determined by the Commissioners of Her Majesty's Treasury.

Substitution of new police court, police station, and offices for present police court and station.

7. The police court, police station, and offices to be erected on the prescribed lands shall respectively be substituted for the present police court, police station, and offices in Bow Street, and be deemed for all purposes to be the police court and police station in Bow Street.

A.D. 1876.

Lands to continue subject to land tax.

8. Such of the prescribed lands as, at the time of the passing of this Act, are subject to land tax shall continue liable thereto.

Authentication of notices and making of contract.

9. Every notice or other document required for the purposes of this Act, to be given or signed by or on behalf of the Commissioners of Works, shall be valid if signed by the secretary or assistant secretary for the time being of those Commissioners.

Sales, &c. subject to 15 & 16 Vict. c. 28.

10. Every purchase, sale, or lease by the Commissioners of Works of the prescribed lands or any part thereof, whether under the provisions of this Act or otherwise, shall be deemed to be a purchase, sale, or lease under the Act of the session of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter twenty-eight:

Provided that it shall not be necessary for any vendor, purchaser, lessor, or lessee to ascertain that the assent of the Commissioners of Her Majesty's Treasury to the purchase, sale, or lease by the Commissioners of Works has been given.

Expenses of Commissioners and disposition of moneys received under Act.

11. *All expenses incurred by the Commissioners of Works under this Act shall be defrayed out of moneys provided by Parliament, and all moneys received under this Act by the Commissioners of Works shall be paid into the Exchequer.*

Saving for the lessors.

12. Nothing in this Act shall authorise the Commissioners of Works to take, otherwise than by agreement, any estate or interest of the lessors, or shall be deemed or construed to prejudice or affect the rights and interests of the lessors under the said recited agreement or otherwise.

Saving as to Bow Street.

13. Nothing in this Act shall authorise the Commissioners of Works to reduce the width of Bow Street.

Bow Street Police Court (Site).

A

BILL

To authorise the acquisition of a Site in Bow Street for the erection of a new Police Court and Police Station and offices.

(*Prepared and brought in by Mr. William Henry Smith and Mr. Secretary Cross.*)

Ordered, by The House of Commons, *to be Printed*, 14 *June* 1876.

[Bill 191.]

Under 1 *oz.*

Bow Street Police Court (Site) Bill.

[AS AMENDED BY THE SELECT COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Acquisition of site for, and erection of, police court and station at Bow Street.
3. Incorporation of Lands Clauses Consolidation Acts, 1845, 1860, and 1869.
4. Extinction of rights of way and other easements.
5. Exemption from Metropolitan Buildings Act.
6. Arrangement with Receiver of Metropolitan Police as to police station.
7. Substitution of new police court, police station, and offices for present police court and station.
8. Lands to continue subject to land tax.
9. Authentication of notices and making of contract.
10. Sales, &c. subject to 15 & 16 Vict. c. 28.
11. Expenses of Commissioners and disposition of moneys received under Act.
12. Saving for the lessors.
13. Saving as to Bow Street.

A

BILL

[AS AMENDED BY THE SELECT COMMITTEE]

TO

Authorise the acquisition of a Site in Bow Street for the erection of a new Police Court and Police Station and offices. A.D. 1876.

WHEREAS it is expedient to erect a new police court and police station and offices on certain lands in Bow Street, in the parishes of St. Martin in the Fields and St. Paul, Covent Garden, in the county of Middlesex:

And whereas duplicate plans describing the situation of the said lands, with the houses and buildings thereon (in this Act referred to as the "prescribed lands"), with a book of reference thereto, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers thereof, have been deposited with the clerk of the peace for the county of Middlesex, at his office at the Sessions House, Clerkenwell, and at the office of the Metropolitan Board of Works, and with the vestry clerk of the parish of St. Martin in the Fields, at the Vestry Hall of the said parish, and with the clerk of the Strand District Board of Works:

And whereas an agreement dated the tenth day of July one thousand eight hundred and seventy-six has been made between the Most Noble Francis Charles Hastings, Duke of Bedford, and the trustees of the will of the late Most Noble Francis seventh Duke of Bedford (in this Act referred to as the lessors), of the one part, and the Commissioners of Her Majesty's Works and Public Buildings (in this Act referred to as the Commissioners of Works) of the other part, for the granting by the lessors, subject to the passing of this Act and the fulfilment of the conditions mentioned in the said agreement, to the Commissioners of Works of a lease of the prescribed lands, or of the greater part thereof, for the term of ninety-nine years, from the twenty-fifth day of December one thousand eight hundred and seventy-six:

A.D. 1876.

And whereas the estates and interests of persons, other than the lessors in the prescribed lands cannot be acquired without the authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Bow Street Police Court (Site) Act, 1876."

Acquisition of site for and erection of police court and station at Bow Street.

2. The Commissioners of Works may purchase, take, and use, as necessary for the public service, all or any of the prescribed lands, and may remove the buildings thereon and sell or dispose of the materials thereof, and erect thereon a police court and police station, and offices and buildings connected therewith, and make such approaches and widenings and alterations of thoroughfares, and do such other acts and things as may be deemed necessary or convenient for carrying this Act into effect.

Incorporation of Lands Clauses Consolidation Acts, 1845, 1860, and 1869.

3. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, in this Act referred to as the Lands Clauses Acts, shall be incorporated with this Act, with the exceptions and additions, and subject to the provisions herein-after contained; that is to say,

1. There shall not be incorporated with this Act sections one hundred and twenty-seven to one hundred and thirty-three, both inclusive, of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous land, and to making good land tax and poor's rate; or the provisions relating to access to the special Act; and
2. In the construction of the Lands Clauses Acts for the purposes of this Act the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the Commissioners of Works; and
3. The bond required by section eighty-five of the Lands Clauses Consolidation Act, 1845, shall be under the common seal of the Commissioners of Works, and shall be sufficient without the addition of the sureties in the said section mentioned; and
4. Where the person claiming compensation from the Commissioners of Works under this Act or the Lands Clauses Acts has no greater interest than as tenant for a year, or from year to year, in the lands in respect of which the compensation is claimed, such claim shall be determined in manner provided by section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845.

Extinction of rights of way and other easements.

4. Upon the purchase or acquisition by the Commissioners of Works of the prescribed lands or any part thereof, or of the estates and interests therein of all persons other than the lessors, all rights of way and water, and rights of laying down or of continuing any pipes, sewers, or drains on, through, or under, and all other public or private easements or rights in or affecting such lands or the part thereof so purchased or acquired (whether absolutely or for a limited interest), shall be extinguished in perpetuity, and all the site and soil of such ways and the property in the pipes, sewers, or drains shall vest in the Commissioners of Works and their successors in fee simple, subject to the rights of the lessors under the said recited agreement, and subject to this provision, that all persons and bodies of persons, corporate and unincorporate, may recover from the Commissioners such compensation (if any) as they may be entitled to under the provisions of the Lands Clauses Acts, or any of them, for any rights or property of which they may be deprived in pursuance of this section, the amount of such compensation to be determined in manner provided by those Acts.

Exemption from Metropolitan Buildings Act.

5. All buildings erected on the prescribed lands by or under the direction of the Commissioners of Works shall be exempt from the operation of the Metropolitan Buildings Act, 1855.

Arrangement with Receiver of Metropolitan Police as to police station.

6. The Commissioners of Works may appropriate such part of the prescribed lands, and the buildings erected thereon, as they think fit for the purpose of a police station and offices and buildings connected therewith, and may assign, lease, or otherwise dispose of the same to the Receiver of the Metropolitan Police District.

Such portion of the expenses incurred by the Commissioners of Works under this Act as the Commissioners of Her Majesty's Treasury and one of Her Majesty's Principal Secretaries of State may determine to have been incurred for the purposes of the police station, and offices and buildings connected therewith, shall be repaid to the Commissioners of Works by the Receiver of the Metropolitan Police District, out of moneys in his hands as part of the expenses of the Metropolitan Police Force, and shall be so repaid by a capital sum in one payment, or in instalments, or by way of rent, or otherwise in such manner and at such times as may be determined by the Commissioners of Her Majesty's Treasury.

Substitution of new police court, police station, and offices for present police court and station.

7. The police court, police station, and offices to be erected on the prescribed lands shall respectively be substituted for the present police court, police station, and offices in Bow Street, and be deemed for all purposes to be the police court and police station in Bow Street.

A.D. 1876.

Lands to continue subject to land tax:

8. Such of the prescribed lands as, at the time of the passing of this Act, are subject to land tax shall continue liable thereto.

Authentication of notices and making of contract.

9. Every notice or other document required for the purposes of this Act, to be given or signed by or on behalf of the Commissioners of Works, shall be valid if signed by the secretary or assistant secretary for the time being of those Commissioners.

Sales, &c. subject to 15 & 16 Vict. c. 28.

10. Every purchase, sale, or lease by the Commissioners of Works of the prescribed lands or any part thereof, whether under the provisions of this Act or otherwise, shall be deemed to be a purchase, sale, or lease under the Act of the session of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter twenty-eight:

Provided that it shall not be necessary for any vendor, purchaser, lessor, or lessee to ascertain that the assent of the Commissioners of Her Majesty's Treasury to the purchase, sale, or lease by the Commissioners of Works has been given.

Expenses of Commissioners and disposition of moneys received under Act.

11. All expenses incurred by the Commissioners of Works under this Act shall be defrayed out of moneys provided by Parliament, and all moneys received under this Act by the Commissioners of Works shall be paid into the Exchequer.

Saving for the lessors.

12. Nothing in this Act shall authorise the Commissioners of Works to take, otherwise than by agreement, any estate or interest of the lessors, or shall be deemed or construed to prejudice or affect the rights and interests of the lessors under the said recited agreement or otherwise.

Saving as to Bow Street.

13. Nothing in this Act shall authorise the Commissioners of Works to reduce the width of Bow Street.

(Site).

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEE]

To authorise the acquisition of a Site in Bow Street for the erection of a new Police Court and Police Station and offices.

(*Prepared and brought in by Mr. William Henry Smith and Mr. Secretary Cross.*)

Ordered, by The House of Commons, *to be Printed,* 19 *July* 1876.

[Bill 257.]

Under 1 *oz.*

A

B I L L

TO

Assimilate the Law of Scotland to that of England respecting the creation of Burgesses. A.D. 1876.

WHEREAS an Act was passed in the fifth and sixth year of His Majesty William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of Municipal Corporations "in England and Wales:"

And whereas another Act was passed in the thirty-second and thirty-third year of Her Majesty, chapter fifty-five, amending the same:

And whereas it is expedient to assimilate the law of Scotland in some respects to the law of England as regards the creation of burgesses:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

Qualification of burgesses.

1. That certain parts of the said recited Acts be extended to Scotland, in manner following:

Every person in Scotland of full age, liable to be rated for the relief of the poor, who at the term of Whitsunday *one thousand eight hundred and seventy-six*, or any succeeding term of Whitsunday in any year, shall have occupied any house, warehouse, counting-house, shop, or other building within any burgh in which there are burgesses, during the whole of that year, and the whole of the two preceding years, and who, during the time of such occupation, shall have been an inhabitant householder within the said burgh, or within seven statutory miles thereof, and who shall have been rated in respect of such premises so occupied within the burgh to all rates made for the relief of the poor or of the parish wherein such premises are situated during the time of his occupation as aforesaid, and who shall have paid, on or before the last day of August as aforesaid, all such rates, including therein all burgh rates, if any, as shall have become payable in respect of the said premises, except such

A.D. 1876.

as shall have become payable within six calendar months next before the said last day of August, shall be a burgess of such burgh: Provided that the premises in respect of the occupation of which any person shall have been so rated need not be the same premises or in the same parish, but may be different premises in the same parish or different parishes: Provided also, that no person being an alien, and no person who, within twelve calendar months next before the last day of August, shall have received parochial relief, or any pension or charitable allowance from the town council of such burgh, or from any corporate body or other public body within the same, shall by virtue of this Act be held to be a burgess of such burgh: Provided further, that no person shall be disqualified from being a burgess as aforesaid by reason that any child of such person shall have been admitted and taught within any endowed school.

Saving.

2. Nothing herein contained shall interfere with any law or legal usage by which burgesses are now created or admitted in any burgh.

A

BILL

To assimilate the Law of Scotland to that of England respecting the creation of Burgesses.

(Prepared and brought in by Mr. McLaren, Mr. Anderson, and Mr. Yeaman.)

Ordered, by The House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 48.]

Under 1 *oz.*

Burghs and Populous Places (Scotland) Gas Supply Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Application of Act limited.
3. Interpretation of terms.

I.—*Adoption of the Act.*

4. Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.
5. If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.
6. Appeal to Board of Trade.

II.—*Incorporation of Acts.*

7. Incorporation of Acts.

III.—*Proceedings of the Commissioners.*

8. Authority for executing Act.
9. Power to commissioners to appoint committee.
10. Power to commissioners to appoint officers.
11. Meetings of committee.
12. Vacancies not to invalidate acts of commissioners.
13. Minutes of proceedings.
14. Contract for supply of gas not to disqualify commissioners.
15. Payment of rates not to disqualify any judge.
16. Books and accounts to be kept.
17. Auditor to be appointed.
18. Accounts to be balanced.

IV.—*General Powers and Obligations of Commissioners.*

Clauses.
19. Commissioners may erect gasworks and supply public and private lights in certain cases.
20. Commissioners may purchase gasworks.
21. Provisions for case of burghs in which there are gas companies.
22. If company and commissioners treat for a sale and cannot agree, price to be fixed by arbitration.
23. Commissioners to discharge debts of company, and undertaking of company to vest in commissioners.
24. Act equivalent to general conveyance of lands.
25. Annuities to vest in shareholders of company, subject to provisoes.
26. Actions not to abate.
27. Company to cease to supply gas.
28. Ultimate dissolution of company.

V.—*Borrowing Powers of Commissioners.*

29. Power to borrow on mortgage.
30. Form of mortgage.
31. Mortgages may be accompanied with interest warrants.
32. Commissioners may borrow on credit of a cash account.
33. Manner in which mortgages and orders on bank account to be signed and executed.
34. Arrears may be enforced by appointment of a judicial factor.
35. Power and duties of judicial factor.
36. Mortgages to be personal estate.
37. Discharge of mortgages.
38. Providing for regular payment of annuities.
39. Application of money borrowed.
40. Guarantee rate.
41. Assessment and levy of rate.
42. Sinking fund.

VI.—*General Provisions.*

Clauses.
43. Commissioners to fix rates for gas.
44. Commissioners may contract to light adjoining burghs.
45. Dispensing with notice as to interference with streets.
46. Obligation of commissioners as to supply.
47. Gas pipes may be put in buildings.
48. Gas to be consumed by meter.
49. Notice to commissioners putting up or removing meters.
50. Repair of meters.
51. Power to commissioners to let meters.
52. Register of gas meter to be primâ facie evidence.
53. Power to remove meters and fittings.
54. Fraudulently injuring meters, &c.
55. For preventing frauds and waste of gas.
56. Quality of gas.
57. Commissioners to maintain apparatus to test illuminating power of gas.
58. Provision for testing quality of gas.
59. Costs of experiment to be paid according to the event.
60. Recovery of sums owing to commissioners.
61. Recovery of penalties

Schedules.

A

B I L L

TO

Make provision for lighting Burghs and Populous Places in Scotland with Gas. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Burghs and Populous Places Gas Supply (Scotland) Act, 1876."

Application of Act limited.

2. The provisions of this Act—

(*a.*) Shall not apply to any burgh over the whole area of which the town council or commissioners of police shall have statutory powers to supply gas at the date of the passing of this Act:

(*b.*) Shall not apply to any burgh over the whole area of which the town council or commissioners of police of any other burgh shall have statutory powers to supply gas at the date of the passing of this Act:

(*c.*) Shall not empower the town council or commissioners of police of any burgh, in which this Act shall be adopted, to supply gas within any part of the area of supply over which the town council or commissioners of police of any other burgh, or any gas company incorporated by Act of Parliament, shall have statutory powers to supply gas at the date of the adoption of this Act in such burgh.

Interpretation of terms.

3. The following expressions in this Act have the meanings hereby assigned to them; that is to say,

"Burgh" means and includes every burgh and place having town councillors or commissioners of police elected under any General or Local Act of Parliament:

"Commissioners" means the authority for executing this Act in any burgh in which the same shall be adopted:

A.D. 1876.

"Elector" means any person entitled to vote in the election of town councillors or police commissioners in any burgh or any ward thereof:

"Lands and heritages" has the same meaning in this Act as in the Act of the seventeenth and eighteenth year of the reign of Her present Majesty, chapter ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland":

"Company" means any person, persons, or company carrying on the business of a gas company:

"Shareholder" means shareholder or holder of stock of any gas company whose works may be acquired by the commissioners of any burgh under the provisions of this Act:

"Annuity" means any annuity payable under this Act:

"Annuitant" means any person entitled to and holding an annuity payable under the provisions of this Act:

"Sheriff" includes sheriff substitute:

"Clerk," "treasurer," and "collector" mean the clerk, treasurer, and collector respectively who may be appointed by the commissioners of any burgh which shall adopt the provisions of this Act.

I.—*Adoption of the Act.*

Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.

4. It shall be lawful for the town council in any burgh in which there is a town council, and for the commissioners of police in any other burgh, by a majority of the members who are present at a meeting of such town council or commissioners specially called for the purpose, to resolve that this Act shall be adopted in and applied to the burgh, and to appoint a day not earlier than the third and not later than the thirtieth lawful day after the completion of the then next ensuing annual election of councillors or commissioners of police, as the case may be, for the burgh, for holding a second special meeting to resume consideration of such resolution; and a copy of any minute containing such resolution and appointment shall be inserted once in each newspaper published in the burgh one month at least before such next annual election; and if there be no newspaper published in the burgh, a copy of such minute shall be delivered or transmitted through the post office to each elector and to the sheriff clerk and clerk of the peace of the county within which the burgh is situated, and shall be inserted once in a newspaper published in such county, or in an adjoining county, one month at least before such next annual election.

A.D. 1876.

If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.

5. It shall be lawful for the town council or commissioners of police, as in the preceding section mentioned, at such second special meeting or at any adjourned special meeting, (of which adjourned meeting four days notice in writing shall be given to each member of the council or commissioner of police, as the case may be,) on resuming consideration of such resolution, either to approve or disapprove the same; and if such resolution shall be approved by a majority of two thirds at least of the members of the council or commissioners of police, as the case may be, who are present at such second special meeting or at such adjourned meeting, this Act shall, subject to the provisions for appeal herein-after mentioned, be held as adopted in the burgh; and a copy of the minute of the meeting at which such resolution shall be so approved shall, at the expiration of fourteen days, or upon the dismissal of the appeal against the said resolution herein-after provided for, be registered in the sheriff court books of the county in which the burgh is situated; and the provisions of this Act shall be in force from and after such registration, the date of which shall be held as the date of the adoption of this Act.

Appeal to Board of Trade.

6. It shall be lawful for any ten or more electors within the burgh, who may be dissatisfied with the said second resolution of the town councillors or police commissioners, as the case may be, resolving that this Act shall be adopted in and applied to the burgh, to appeal to the Board of Trade against the said resolution, by lodging with the Secretary of the Board of Trade, and also with the town clerk or clerk to the Commissioners of Police, as the case may be, within fourteen days after the date of the said resolution, a notice of appeal against the same signed by the said appellants; and the Board of Trade shall, as soon as conveniently may be, after making such investigation as to the Board shall seem fit, determine whether this Act shall apply to the said burgh or not.

II.—*Incorporation of Acts.*

8 & 9 Vict. c. 19. and 23 & 24 Vict. c. 106. incorporated.

7. "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts (1845) Amendment Act, 1860," shall, except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, be incorporated with and form part of this Act.

Part of 10 & 11 Vict. c. 16. incorporated.

The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall, except sections eighty-four and eighty-five, and except where

A.D. 1876.

expressly varied by this Act, be incorporated with this Act, and applied to the money borrowed and mortgages granted under the powers of this Act.

10 & 11 Vict. c. 15. incorporated.

"The Gasworks Clauses Act, 1847," except the clauses thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall, except where the same are at variance with the provisions of this Act, be incorporated with and form part of this Act.

The several words and expressions to which by the Acts partially incorporated with this Act meanings are assigned, shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, that in the Acts partially incorporated with this Act and also in this Act the expressions "the undertakers" and "the commissioners" shall mean the commissioners acting in the execution of this Act; "the undertaking" shall mean the gasworks, business, property heritable and movable, plant, pipes, meters, and other assets of any company to be purchased by and vested in the commissioners under the provisions of this Act; and the word "street" shall mean and include street, highway, quay, wharf, bridge, railway crossing, bridleway, footway, carriageway, side pavement, turnpike, statute labour, or other road, thoroughfare, lane, passage, square, court, or place within any burgh brought under the provisions of this Act.

III.—*The Commissioners; their proceedings.*

Authority for executing Act.

8. The commissioners for executing this Act in any burgh in which the same shall be adopted shall be,—

(1.) In any burgh having a town council, the town council;

(2.) In any other burgh, the commissioners of police.

Power to commissioners to appoint committee.

9. The commissioners may from time to time appoint a committee of their number (to be called "the gas committee") for the execution of any of the purposes of this Act, and may appoint a convener of such committee, and may from time to time remove any member of such committee, and appoint another commissioner in his room, and may delegate to any such committee such of the powers and authorities of the commissioners as the commissioners think fit and where such powers and authorities are not specially limited and defined by the commissioners, every such committee shall have and may exercise all powers and authorities necessary to enable them to transact the business committed to them; and the acts and proceedings of any such committee within the limits of such delegation

shall be deemed the acts and proceedings of the commissioners; and the quorum of any such committee shall, unless where otherwise declared, be three, and the convener thereof shall be chairman; and the commissioners may from time to time make such regulations as they think fit for the guidance of any such committee.

Power to commissioners to appoint officers.

10. The commissioners may, if they think fit, annually appoint a treasurer, clerk, or other necessary officers, and may allow to such treasurer, clerk, and officers such salaries as shall to them seem reasonable.

Meetings of committee.

11. Every committee appointed by the commissioners may meet from time to time and may adjourn from place to place as they think proper for carrying into effect the purposes of their appointment; and at all meetings of the committee one of the members present shall, in the absence of the convener, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Vacancies not to invalidate acts of commissioners.

12. No proceeding of the commissioners or of any committee shall be invalidated or be illegal in consequence of there being any vacancy or vacancies in the number of commissioners at the time of such proceeding.

Minutes of proceedings.

13. The commissioners shall cause entries of the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk, under the superintendence of the commissioners; and every such entry shall be signed by the chairman of the meeting at which the proceedings took place; and such entry so signed, or a copy thereof certified by the clerk, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commissioners, or of any mortgagee of the property of the commissioners, or of any annuitant.

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Contract for supply of gas not to disqualify commissioners.

14. No person shall be disqualified from being, continuing, or acting as a commissioner by reason of his being concerned in any contract entered into with the commissioners for the supply of gas, or of his being a mortgagee of the commissioners or an annuitant.

Payment of rates not to disqualify any judge.

15. No person liable under this Act in payment of rates or other consideration in respect of a supply of gas shall on that account, or on account of being a commissioner, be disqualified from acting as a justice of peace or sheriff, or exercising any judicial or other function in the carrying out of this Act.

Books and accounts to be kept.

16. The treasurer shall keep separate and distinct books and accounts altogether apart from and unconnected with the other accounts and books of the commissioners, and such books and accounts shall contain a full and accurate record of all moneys received and paid by the treasurer or the servants of the commissioners under the powers and provisions of this Act.

Auditor to be appointed.

17. On or before the *first day of May* in every year after this Act shall be adopted by a burgh, the sheriff shall, on the application of the commissioners or of any three annuitants, appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the commissioners, or holding office under them,) to audit the accounts of the commissioners; and such auditor shall continue in office until superseded by the appointment of another, and shall be allowed such reasonable remuneration as shall be fixed by the sheriff; and in case in any year the office of such auditor shall, before such accounts have been audited by him, become vacant by death, or from any other cause, the sheriff, on the application of the commissioners, or of any three annuitants, shall from time to time appoint an auditor to supply such vacancy; and the whole books, accounts, vouchers, and documents of the commissioners in relation to their undertaking shall be laid before the auditor for the purpose of such audit.

Accounts to be balanced.

18. The accounts to be kept by the treasurer shall be brought to a balance on the *fifteenth day of May* in each year for the year immediately preceding, and shall be audited within thirty days thereafter, and shall be submitted along with the auditor's report to a general meeting of the commissioners, which shall be held upon the second Monday of July annually, at which meeting the accounts shall be examined, and an abstract statement and account, authenticated by the docquet and subscription of the chairman of the meeting and the clerk, shall be printed, and a copy

thereof shall be inserted once in each newspaper published in the burgh within ten days of the date of such general meeting, or if there be no newspaper published in the burgh, a copy of such abstract statement and account shall be inserted once in a newspaper published in the county in which the burgh is situated, or in an adjoining county. The commissioners shall also keep printed copies of such abstract statement and account at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

IV.—*General Powers and Obligations of Commissioners.*

Commissioners may erect gasworks and supply public and private lights in certain cases.

19. The commissioners may (subject to the provisions of this Act) erect, lay down, improve, extend, and maintain gasworks, gasometers, and pipes for the distribution of gas, and execute all such works as may be necessary for the efficient manufacture and supply of gas for public and private purposes within the burgh, and may purchase, acquire, and hold lands and other property for these purposes, and may carry on any such operations and business as are for the time being usually carried on by gas companies.

Commissioners may purchase gasworks.

20. Where there is a company, not incorporated by Act of Parliament, the commissioners may buy from such company, and the directors of such company by and with the authority of three fifths of the shareholders for the time being who may be present either personally or by proxy at some general meeting of the company specially convened for the purpose, may sell and transfer to the commissioners, on such terms as may be agreed on between the commissioners and the company, either for a price to be immediately paid or for a price to be paid in the form of a perpetual annuity of a determinate amount payable yearly or half-yearly as may be agreed upon, all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attached to the same at the time of purchase; and such sale and transfer shall be good and binding on the shareholders of the company, notwithstanding any provision contained in the company's deed of co-partnership to the contrary.

Provisions for case of burghs in which there are gas companies.

21. Where there is a company not incorporated by Act of Parliament, if the commissioners shall give notice to such company that they are willing to buy or to treat for the purchase of all the rights, powers, and privileges, and all the lands,

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premises, works, and other property of the company, and if such company shall refuse to sell or to treat for the sale of the same, or shall not within twenty-one days after the service of such notice return any answer, the commissioners may present a petition to the sheriff stating the facts and asking decree finding and declaring that in respect thereof the commissioners shall have and may exercise in such burgh the same rights, powers, and privileges as it is provided they shall have and may exercise under this Act, and the sheriff shall have full authority and power to grant decree accordingly on being satisfied by evidence of the facts as stated without further or other inquiry, and his decree shall be final, and on such decree being pronounced the commissioners shall have and may exercise all the powers conferred by this Act on commissioners in burghs in which there is no company.

Where there is in a burgh more than one company, not incorporated by Act of Parliament, and any one or more of these, after receiving such notice as aforesaid, shall refuse to sell or to treat, or shall not answer as aforesaid, the commissioners may apply for and obtain decree as aforesaid, but shall not exercise their rights, powers, or privileges until after the settlement of the terms of transfer from the other company or companies which, after receiving such notice, shall have agreed to sell or treat for a sale to the commissioners in terms thereof.

If company and commissioners treat for a sale and cannot agree, price to be fixed by arbitration.

22. If such company or companies as are referred to in the preceeding two sections shall agree to treat for the sale of their rights, powers, and privileges, if any, and lands, premises, works, and other property, but the commissioners and the company or companies shall not be able to agree as to the price to be paid for the same, or for any portion thereof, such price shall be settled by arbitration in the manner herein-after provided, whether the same shall be, in terms of such agreement to treat, a price to be immediately paid, or a price to be paid in the form of a perpetual annuity; that is to say,

(1.) Unless the company or companies and commissioners shall concur in the appointment of a single arbiter, each of them on the request of the other shall nominate and appoint an arbiter to whom the settlement of such price shall be referred; and every appointment of an arbiter shall be made on the part of the company under the hand of the secretary or any two of the directors of the company, and on the part of the commissioners under the hand

of the proper officer or person authorised by such commissioners, and such appointment shall be delivered to the arbiters, and shall be deemed a submission to arbitration, and after any such appointment shall have been made, neither shall have power to revoke the same without the consent of the other, and if for the space of fourteen days after the disagreement as to the price and after request in writing served by either of them on the other to appoint an arbiter, the other shall fail to appoint an arbiter, then upon such failure the one making the request and having appointed an arbiter may appoint such arbiter to act on behalf of both, and such arbiter may proceed to hear and determine the said price, and in such case his determination shall be final:

(2.) If before the price is fixed one of the arbiters shall die or become incapable to act, another person may be appointed in writing to act in his place, by the party that appointed the former arbiter, and if such party shall fail to do so for the space of seven days after notice in writing from the other party for that purpose, the remaining or other arbiter may proceed ex parte, and his determination shall be final, and every arbiter so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbiter at the time of such his death or disability as aforesaid:

(3.) Where more than one arbiter shall have been appointed, such arbiters shall, before they enter upon the reference, nominate and appoint by writing under their hands an oversman, to decide the price in case they should differ, and if such oversman shall die or become incapable to act they shall forthwith after such death or incapacity appoint another oversman in his place, and the decision of every such oversman in the event of the arbiters differing shall be final:

(4.) If in either of the cases aforesaid the said arbiters shall refuse or shall for seven days after request of either party to the arbitration, neglect to appoint an oversman, it shall be lawful for the sheriff on the application of either party to such arbitration to appoint an oversman, and the decision of such oversman as to the said price in the event of the arbiters differing shall be final:

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(5.) If when a single arbiter shall have been appointed, such arbiter shall die or become incapable to act before he shall have made his award, the matter referred to him shall be determined by arbitration under the provisions of this Act, in the same manner as if such arbiter had not been appointed:

(6.) If when more than one arbiter shall have been appointed, either of the arbiters refuse, or for seven days neglect to act, the other arbiter may proceed ex parte, and the decision of such arbiter shall be as effectual as if he had been the single arbiter appointed by both parties:

(7.) If where more than one arbiter shall have been appointed, and neither of them shall refuse or neglect to act as aforesaid, such arbiters shall fail to make their award within twenty-one days after the day on which the last of such arbiters shall have been appointed, or within such extended time as shall have been appointed for that purpose by both such arbiters, the matter referred to them shall be determined by the oversman to be appointed as aforesaid:

(8.) The said arbiters or their oversman may call for the production of any documents in the possession or power of either party to the arbitration, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose, and take all evidence competent according to the law of Scotland:

(9.) All the expenses of any such arbitration, and incident thereto, including their own remuneration, shall be settled by the arbiters or oversman, as the case may be, and shall be borne by the commissioners, unless the arbiters or oversman shall award the same sum as or a less sum than shall have been offered by the commissioners as the price, in which case each party shall bear his own expenses incident to the arbitration, and in all cases the expenses of the arbiters or oversman, as the case may be, and of recording the decreet arbitral or award in the books of Council and Session, shall be borne by the commissioners:

(10.) The arbiters shall make their decreet arbitral or award in writing, and shall cause the same to be recorded in the books of Council and Session, or shall deliver the same to the commissioners to be by them so recorded, and the

said commissioners shall on demand, at their own expense, furnish an extract thereof from the said books to the company, and extracts of such decreets arbitral or awards shall bear faith in all courts and cases the same as the original writings:

(11.) No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Commissioners to discharge debts of company, and undertaking of company to vest in commissioners.

23. When the commissioners shall acquire the works of any gas company they—

1. Shall pay off the mortgage and bond debts, and all other debts and liabilities of the company, and shall deliver to the company, or place upon record, discharges and receipts for such mortgage and bond and other debts, to the satisfaction of the sheriff; or

2. Shall otherwise as may be agreed upon between the commissioners and the company and any creditors of the company relieve the company from all liability for payment of such mortgage and bond debts, and all other debts and liabilities of the company, to the satisfaction of the sheriff; or

3. Shall consign the amount of such debts in any bank in Scotland incorporated by Act of Parliament or Royal Charter, in case of any obstacle existing or arising to prevent any of such debts from being paid, and discharges thereof obtained, or to prevent the company being relieved therefrom, and such consignation of the consigned money having been made at the sight and to the satisfaction of the sheriff, so as to secure the payment thereof to the persons who shall show right thereto, shall have the same effect as the delivery or recording of discharges thereof or granting of bonds or other deeds of relief therefor.

The sheriff, when satisfied that the whole of the mortgage and bond and other debts of the company have been paid and discharged, or that valid and sufficient bonds or other deeds of relief of the company therefrom have been granted by the commissioners, shall, on the application of the commissioners, grant a certificate to that effect; and upon such certificate being granted, the undertaking of the company, and their whole rights, powers, and privileges, lands, buildings, works, mains, pipes, stores, machinery, meters, and other apparatus, property, or estate, heritable and moveable, real

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and personal, and assets, money in the hands of bankers or others, belonging to the company, and debts due to the company as at the date of the agreement for the acquisition of the works, and all money earned and to be earned, due or to become due, from that date until the undertaking shall become vested in the commissioners, shall vest and become vested in and transferred to the commissioners, but subject to and under burden of payment of any annuity that may have been agreed upon to be paid as herein-before provided, and the burdens, debts, and obligations of the company: Provided always, that—

Within six months after the date of such certificate the commissioners shall produce to the Commissioners of Inland Revenue a copy of this Act, printed by Her Majesty's printers, and duly stamped with an ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance of the said undertaking for the consideration by this Act provided; and if the commissioners shall not, within the said period of six months, produce to the Commissioners of Inland Revenue such copy of this Act, duly stamped as aforesaid, the said ad valorem stamp duty shall be recoverable from the commissioners, with full costs of suit, and all costs and charges attending the same.

Act equivalent to general conveyance of lands.

24. After the mortgage and bond and other debts of the company shall have been paid and discharged or consigned, or bonds or other deeds of relief therefor granted as aforesaid, and a certificate to that effect shall have been granted by the sheriff in manner herein provided, this Act shall, as respects the lands and heritages to become vested in the commissioners as aforesaid, be equivalent to a general conveyance thereof by the company according to the law of Scotland; and thereupon, in order to the completion of a feudal title to such lands and heritages in the commissioners, it shall be lawful for the commissioners to expede a notarial instrument, which shall specially set forth this Act and the said certificate, and to record such notarial instrument in the manner and to the effect prescribed by "The Titles to Land Consolidation (Scotland) Act, 1868," with reference to lands conveyed by general disposition or conveyance, and such notarial instrument shall contain provisions constituting any annuity agreed upon to be paid by the commissioners to the company a real and preferable burden upon the lands and heritages so conveyed.

Annuities to vest in shareholders of company.

25. In the event of the agreement between the commissioners and the company being for payment by way of annuity, the

following provisions shall have effect; firstly, the amount of the annuity, as the same shall be fixed by agreement or settled by arbitration in the manner herein-before provided, shall be payable in every year on such day or days yearly or half-yearly as may be agreed upon between the commissioners and the company, or settled as herein-before provided; secondly, the said amount shall be paid in the form of annuities, which shall be called by the name of the burgh issuing the same, and which shall vest in and belong and be paid to the several persons, their executors, administrators, or assignees, who at the date of the agreement to purchase the undertaking of the company were shareholders in the company, according to their respective rights and interests in the share capital of the company, subject to the following provisions; viz.,

Annuity certificates to be granted.

(A.) The commissioners shall, at their own expense, grant and issue to every shareholder of the company, or to his executors, administrators, or assignees, on delivery to the commissioners of the certificate, or on production of other evidence of the share or stock or interest held by him in the capital of the company, annuity certificates in the form of the Schedule (A.) to this Act for the amount of the annuities to which such shareholder is entitled under the provisions of this Act:

Amounts for which certificates shall be issued.

(B.) The annuity certificates issued by the commissioners to any person entitled thereto shall be so many, and each of them for such sum, but not exceeding in the aggregate the whole amount of his annuities, as he by notice in writing to the commissioners shall require: Provided that if or so far as any person does not require any particular number of certificates to be issued to him, the commissioners shall issue to such person one or more certificates, as they shall think fit:

Certificates to be numbered and renewed.

(C.) The annuity certificates shall be numbered in arithmetical progression, beginning with No. 1, and every annuity certificate shall be distinguished by its appropriate number; and the annuity certificates shall be renewed by the commissioners when lost, worn out, or damaged, on production to them, or their clerk or treasurer, of evidence of the right of the annuitant requiring such renewal; and if in any case the commissioners shall not be satisfied with the evidence offered by any annuitant, he may appeal to the sheriff, who shall decide summarily what evidence is requisite, and whose decision shall be

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final; and for every such renewed certificate the commissioners may demand any sum not exceeding two shillings and sixpence:

Register of annuities.

(D.) The commissioners shall keep a book, called "The Register of [*name of burgh*] Gas Annuities," and enter therein from time to time, in alphabetical order, the names and designations of the several annuitants respectively entitled to the annuities, and the respective amounts of their annuities:

Annuities personal estate.

(E.) The annuities shall be moveable or personal estate, and transmissible as such:

Annuities may be transferred.

(F.) Every annuitant may sell and transfer all or any of his annuities; and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated, and such deed may be in the form of the Schedule (B.) to this Act, or to the like effect:

Transfer of annuities to be registered.

(G.) Every such transfer, when duly executed, shall be delivered to the commissioners, and kept by them, and they shall keep a book called "The Register of Transfers of the [*name of burgh*] Gas Annuities," and shall enter every such transfer therein, and shall endorse such entry on the transfer, such endorsement to be signed by the treasurer or clerk, and shall, on demand, deliver a new certificate to the transferee; and for every such entry of a transfer with such endorsement and certificate the commissioners may demand any sum not exceeding two shillings and sixpence; and on the request of any transferee an endorsement of the transfer to him shall be made on the certificate transferred, instead of a new certificate being granted; and such endorsement, being signed by the treasurer or clerk, shall be considered in every respect the same as a new certificate; and until such transfer be so delivered to the commissioners the transferee shall not be entitled to receive any part of the annuities transferred:

Closing of transfer books.

(H.) The commissioners may close the register of transfers of annuities for any period not exceeding fourteen days in each year; and any transfer made during the time when such register is closed shall, as between the commissioners and the transferee, but not otherwise, be held as made after that time:

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Transmission of annuities by other means than transfer to be authenticated by a declaration.

(I.) If the right to any annuity becomes transmitted in consequence of the death or bankruptcy or insolvency of any annuitant, or in consequence of the marriage of a female annuitant, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as herein-after provided; and until the transmission be so authenticated, no person claiming by virtue thereof shall be entitled to receive any part of the annuity transmitted:

Contents of declaration in all cases.

(J.) Every such declaration shall state the manner in which and the party to whom the annuity is transmitted, and shall be made and signed by some credible person before a justice of the peace or a sheriff; and such declaration shall be left with the commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of annuities, and for every such entry the commissioners may demand any sum not exceeding one shilling:

Contents of declaration in cases of transmission by marriage or will.

(K.) If the transmission be by virtue of the marriage of a female annuitant, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration or effecting thereof, and shall declare the identity of the wife with the holder of the annuity; and if the transmission be by virtue of any will or testamentary instrument, or by intestacy, the confirmation or testament testamentar, or testament dative, or the probate or letters of administration, or an official copy or extract thereof, shall, with the declaration, be produced to the treasurer or clerk, and upon such production in either of those cases the treasurer or clerk shall make an entry of the declaration in the register of transfers of annuities:

Commissioners not bound to regard trusts.

(L.) The commissioners shall not be bound to see to the execution of any trust, whether expressed, implied, or constructive, to which any annuity may be subject; and the receipt of the person in whose name any annuity stands in the register of annuities shall from time to time be a sufficient discharge to the commissioners for any money payable in respect of such annuity, notwithstanding any trust to which the same may then be subject, and whether or not the commissioners have had notice of such trusts, and the commissioners shall not be

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bound to see to the application of the money paid upon such receipt:

Commencement and payment of annuities.

(M.) The annuities shall be computed from such day in each year as may be agreed upon between the commissioners and the company, and shall be paid at the office of the commissioners or their treasurer in the burgh from which they were issued in net money, clear of all deductions whatsoever (except income or property tax, or other tax in the nature thereof legally chargeable thereon):

Power to redeem annuities by agreement.

(N.) The commissioners may from time to time, by agreement with any annuitant, purchase or redeem all or any of his annuities; and when any annuity is so redeemed, an entry of the redemption thereof shall be made in the register of the Burgh's Gas Annuities, and thereupon the redeemed annuity shall be wholly extinguished:

Annuities recoverable by action.

(O.) If any annuity or part of an annuity being payable be not paid on demand thereof in writing made by any annuitant or his agent to the commissioners, the annuitant may sue for and recover the same from the commissioners in the Sheriff Court, with interest at the rate of *five pounds* per centum per annum till paid, and expenses:

Annuitants to be preferential creditors for annuities.

(P.) The annuitants shall be creditors of the commissioners for payment of the annuities respectively herein-before directed to be paid to them, and of the interest thereon and expenses incident thereto; and the said annuities, and the interest on moneys authorised to be borrowed under the authority of this Act, are hereby constituted primary and preferential burdens and liens on the undertaking, and on any other works and property from time to time to be acquired or constructed by the commissioners, and on the rates and charges leviable by and on the other revenues of the commissioners under this Act.

Actions not to abate.

26. No action, suit, prosecution, or other proceeding whatsoever commenced either by or against the company in relation to the undertaking of the company to be vested in the commissioners as aforesaid previous to such vesting taking place, shall abate or be discontinued or be prejudicially affected thereby, but all such actions, suits, prosecutions, and other proceedings shall continue and take effect, either in favour of or against the commissioners, in such and the like manner as the same would have continued and taken effect in relation to the company if such vesting in the commissioners had not taken place.

Company to cease to supply gas.

27. From and after the date when the commissioners shall become vested with the undertaking of any company under the provisions of this Act, the company shall cease to manufacture, sell, and supply gas.

Ultimate dissolution of company.

28. From and after the date of the certificate to be granted by the sheriff in manner herein-before provided, the company shall subsist only for the purpose of securing the annuity certificates being granted to the shareholders for their respective annuities as herein-before provided, and of obtaining from the commissioners discharges of the mortgage and other debts and obligations due by the company which, under the provisions of this Act, are to be paid by the commissioners, or of enforcing against the commissioners the company's right to relief from such mortgage and other debts and obligations, for winding up the affairs of the company, and carrying into effect the purposes of this Act, so far as relating to the company; and the directors of the company in office at the date of the said certificate being granted, and the survivors of them, shall continue without re-election to hold office, and shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned, and on the fulfilment of the said purposes the company shall be dissolved.

V.—*Borrowing Powers of Commissioners.*

Power to borrow on mortgage.

29. It shall be lawful for the commissioners to borrow on mortgage any money which may be necessary for the purchase or erection of gasworks for the burgh, and to grant mortgages of any undertaking acquired, and of any works and property to be acquired or constructed by them, and also of any rates or charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed and interest thereon; and if, after having borrowed any sum of money, the commissioners pay off the same otherwise than by a sinking fund, it shall be lawful for them again to borrow the amount so paid off, and so from time to time.

Form of mortgage.

30. Every mortgage to be granted by the commissioners shall be by deed duly stamped, in which the consideration shall be truly stated, and may be in the form of the Schedule (C.) to this Act annexed.

Mortgages may be accompanied with interest warrants.

31. It shall be lawful for the commissioners to issue along with any such mortgage, and during the period of any postponement of

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the term of payment thereof, interest warrants in the form of the Schedule (D.) to this Act annexed, or to the like effect, signed by the treasurer, for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist; and the delivery to the commissioners or their treasurer, or to any person on their behalf, of any such interest warrant, duly stamped as a receipt, shall be a valid and sufficient discharge to the commissioners for the interest in respect of which the same was issued.

Commissioners may borrow on credit of a cash account.

32. It shall be lawful for the commissioners to take from any banking company credit on a cash account, to be opened and kept with such banking company in the name of the commissioners, according to the usage of bankers in Scotland, to the extent required as aforesaid, and to make and grant mortgages of the property and works forming their undertaking, and of any rates or charges leviable by them under the authority of this Act, in security of the payment of the amount of such credit, or of the sums advanced from time to time on such cash account, with interest thereon.

Manner in which mortgages and orders on bank account to be signed and executed.

33. Every mortgage to be granted by the commissioners may be written or partly written and partly printed, and shall be signed by at least two of the commissioners and the treasurer; and all drafts or orders on the cash account before mentioned shall be signed by any two of the commissioners authorised so to do, and shall be countersigned by the treasurer: Provided always, that no commissioner or treasurer shall, by his subscription of any such mortgage, draft, or order, be, or be held to have rendered himself, individually or personally liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Arrears may be enforced by appointment of a judicial factor.

34. It shall be lawful for any of the following persons to apply by summary petition to the Court of Session in either division thereof, or in the time of vacation to the Lord Ordinary on the bills, for the appointment of a judicial factor to manage the undertaking of the commissioners, with the powers after mentioned, and for such court or Lord Ordinary to appoint a judicial factor accordingly; that is to say,

1. Any annuitant or mortgagee having an annuity or interest on a mortgage in arrear to the amount of not less than one hundred pounds; or

2. Any mortgagee with principal or principal and interest in arrear to the amount of not less than five hundred pounds; or

3. Any annuitants or mortgagees having annuities, or interest on mortgages in arrear to the amount of not less than two hundred pounds in the aggregate; or

4. Any mortgagees with principal or principal and interest in arrear to the amount of not less than one thousand pounds in the aggregate.

Provided—

(*a.*) The arrear shall have existed for two months; and

(*b.*) The arrear shall have existed for twenty-one days after a demand for payment made in writing; and

(*c.*) The arrear with interest and expenses shall not have been paid before the application is advised.

An interlocutor pronounced under this section appointing a judicial factor shall not be subject to review or appeal.

Power and duties of judicial factor.

35. A judicial factor appointed under the preceding section shall, on finding security in common form, have and exercise all the powers and rights and be subject to all the obligations of the commissioners whose undertaking he is appointed to manage, and the judicial factory shall continue till all arrears, whether of principal, annuities, or interest, due at the date of his appointment, and all such arrears subsequently arising, and all the expenses of the factory, including the expenses of the appointment, shall be paid, whereupon it shall be lawful for the commissioners to apply for the recal of the appointment of the judicial factor to the Court of Session in either division thereof, or, in time of vacation, to the Lord Ordinary on the bills, who may recall such appointment accordingly.

Mortgages to be personal estate.

36. All mortgages to be granted by the commissioners under the authority of this Act, and all money to be advanced and lent on the security of any rates or charges leviable by them, shall be moveable or personal estate, and transmissible as such.

Discharge of mortgages.

37. Any person entitled to any mortgage granted by the commissioners under the authority of this Act may discharge the same, and his right and interest therein, in favour of the commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the Schedule (G.) to this Act, or to the like effect; and such discharge, when signed by the person entitled to such

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mortgage and duly stamped, shall be valid and effectual to all intents and purposes.

Providing for regular payment of annuities.

38. The commissioners may from time to time apply any moneys borrowed under the authority of this Act with a view to the regular payment of annuities as they fall due; provided that they shall as soon as may be replace any moneys so applied out of any rates or charges which they are empowered to impose and levy under this Act.

Application of money borrowed.

39. The several sums borrowed by the commissioners under the authority of this Act shall be applied in the payment of the mortgage and other debts of the company, and in carrying the other purposes of this Act into execution; but the commissioners shall not apply any of the money so borrowed to the maintenance of the works acquired or to be constructed by them, or to the expenses of management, or to any other expenses properly payable out of revenue.

Guarantee rate.

40. It shall be lawful for the commissioners and they are hereby required from time to time to fix, impose, and levy such a rate, to be termed "The Gas Contingent Guarantee Rate," as may be required to pay any annuities and any interest due thereon, and the interest of money borrowed or to be borrowed under the provisions and for the purposes of this Act.

Assessment and levy of rate.

41. The gas contingent guarantee rate shall be imposed, levied, and collected, on the requisition of the commissioners, by the authority in the burgh empowered by law to levy any assessment for police purposes therein, along with and in the same manner in all respects and from the same descriptions of persons and property as such assessment for police purposes; and the amount of such rate, when imposed, levied, and collected by such authority, shall be paid over to the commissioners for the purposes of this Act. All the powers, enactments, and provisions of law in force for the time with respect to the levying, payment, and recovery of assessments for police purposes within the burgh shall apply to the levying, payment, and recovery of the gas contingent guarantee rate by this Act authorised to be raised.

Sinking fund.

42. The commissioners shall, in every year after the second year from their commencing to supply gas, set apart as a sinking fund a sum of not less than five pounds per centum per annum on their gross receipts from any business carried on by them, and such sinking fund shall from time to time be applicable to the redemption of mortgages and annuities, and to no other

purpose, and shall be lodged in any bank in Scotland incorporated by Act of Parliament or Royal Charter, or invested in Government or on heritable securities, in the name of "(*name of burgh*) Gas Commissioners," at the discretion of the commissioners, until the same be applied for the purposes before specified. A.D. 1876.

VI.—*General Provisions.*

43. The commissioners, as regards the first year of the undertaking, shall, at a special meeting to be held within one month after the date of the certificate to be granted by the sheriff in manner herein-before provided, cause their treasurer to lay before them an estimate of the probable revenue of the commissioners from all sources in the interval between the date of such certificate and the term of Whitsunday next ensuing, and of all the expenses of every description of the undertaking for the same interval; and at such meeting, or at an adjournment thereof, they may resolve to continue till the said next ensuing term of Whitsunday the prices charged for gas and for the other products and articles manufactured and sold or let by the company immediately before the date of such certificate as the prices to be charged therefor by the commissioners, or may fix such prices to be charged by them therefor as shall make their revenue for the said interval balance their expenditure. Commissioners to fix rates for gas.

The commissioners shall, in every year after the first, at latest at their general meeting on the second Monday of July annually, cause their treasurer to lay before them an estimate of the sums to be derived for the year, from the term of Whitsunday immediately preceding to the term of Whitsunday immediately following, from the sale of gas, and from the sale of the secondary and other products of the manufacture thereof, and from the letting of meters, and also an estimate of the sums required to meet for such year the annuities, interest on borrowed money, sinking fund, feu duties or ground annuals, expenses of management, maintenance or extension of works, repairs, materials, salaries, wages, taxes, and other outgoings and charges; and at such meeting, or at an adjournment thereof, the commissioners shall fix the sums to be charged by them for gas and other products and articles manufactured and sold or let by them for the year, from the term of Whitsunday immediately preceding to the term of Whitsunday immediately following, so that the revenue shall, as nearly as possible, meet the expenditure for each year: Provided always, that if in any year the revenue received exceeds the amount

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required for the purposes aforesaid, such revenue shall, to the extent of such excess, be held to be revenue of the following year, and the commissioners shall make such a reduction in the price to be charged by them in the following year for gas as they shall think will have the effect of making the revenue meet the expenditure in such year and no more.

Commissioners may contract to light adjoining burghs.

44. The commissioners may contract and agree with the town council or commissioners of police of any immediately adjacent burgh in which any town council or commissioners of police, or any company incorporated by Act of Parliament, are not at the date of the passing of this Act entitled to supply gas, to supply such burgh, and (subject to the provisions of this Act) any districts adjacent thereto, with gas for public and private purposes.

Dispensing with notice as to interference with streets.

45. It shall not be necessary for the commissioners, before they proceed to break up for the purposes of this Act any street under the control of the commissioners, to give any notice of their intention so to do.

Obligation on commissioners as to supply.

46. The commissioners shall, on the request in writing of the owner or occupier of any building or part of a building within one hundred yards of which any main of the commissioners is laid, furnish to such owner or occupier a supply of gas for such building or part of a building on the following conditions, viz. :

First. That the person making such request do, if required by the commissioners, give to them, at his own expense, reasonable security for payment for the gas to be supplied;

Secondly. That such person do pay the cost of and the expenses of laying all necessary pipes for such supply beyond the line of street or road where the main of the commissioners is placed;

Thirdly. That such person do, if required by the commissioners, pay in advance the estimated amount of such cost and expenses;

and any dispute as to any matter arising under the present section shall be settled, upon the application of either party, by the sheriff, whose decision thereof shall be final.

The commissioners shall, on failure to comply within a reasonable time with a request made under this section, be liable to a penalty not exceeding five pounds, which shall be payable to the person entitled to sue for the same.

Gas pipes may be put in buildings.

47. Subject to the provisions contained in this Act, and the Acts partially incorporated herewith, the commissioners may lay any pipe, branch, or other necessary apparatus, with the consent of the owner and occupier of any building, for the purpose of

lighting the same or any adjoining building, and may, with the like consent, provide and set up any apparatus necessary for securing to any building a proper and sufficient supply of gas, and for measuring and ascertaining the extent of such supply.

Gas to be consumed by meter.

48. Every consumer of gas supplied by the commissioners shall consume the gas by meter; and every meter measuring the consumption of gas, whether such meter is provided by the consumer or the commissioners, shall be subject to the inspection and approval of the officers and servants of the commissioners.

Notice to commissioners putting up or removing meters.

49. Before any person shall connect or disconnect any meter through which gas supplied by the commissioners is intended to be or has been registered, he shall give not less than twenty-four hours notice in writing to the commissioners of his intention to do so, and any person offending against this enactment shall forfeit and pay to the commissioners a sum not exceeding forty shillings.

Repair of meters.

50. Every consumer of gas supplied by the commissioners shall at all times, at his own expense, keep all meters whereby the consumption of such gas is registered in proper order for correctly registering such consumption, in default whereof the commissioners may cease to supply gas through such meters; and the commissioners shall at all reasonable times have access to and be at liberty to take off, remove, test, inspect, and replace any meter at their own expense if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to commissioners to let meters.

51. The commissioners may let for hire any meter and any fittings thereto, on such terms with respect to the repair of such meter and fittings, and for securing the safety and return of the same to the commissioners, as may be agreed upon between the hirer and the commissioners, and such hire shall be recoverable in the same manner as moneys due to the commissioners for gas; and such meters and fittings shall not be subject to any diligence at the instance of the landlord for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law, or any proceedings in bankruptcy against the persons in whose possession the same may be.

Register of gas meter to be primâ facie evidence.

52. The register of the meter shall be primâ facie evidence of the quantity of gas consumed.

Power to remove meters and fittings.

53. It shall be lawful for the commissioners, after twenty-four hours notice in writing under the hand of the manager of their works or some other one of their officers to the occupier, or if un-

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occupied, then to the owner or lessee or the person in charge or reputed to be in charge of any land, house, or building in which any pipes, mains, meters, or fittings belonging to the commissioners are laid or fixed, and through or in which the supply of gas shall, from any cause other than the neglect or default of the commissioners, be discontinued, to enter such land, house, or building between the hours of nine in the morning and six in the afternoon, for the purpose of removing, and to remove, such pipes, meters, or fittings, repairing all damages caused by such entry or removal; and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or, if such person or his address be not known, then by being affixed on some conspicuous part of such land, house, or building.

Fraudulently injuring meters, &c.

54. Every person who shall willingly, wilfully, fraudulently, or by culpable negligence injure or suffer to be injured any meter or fittings belonging to the commissioners, or shall fraudulently alter or prevent the index to any meter from duly registering the quantity of gas supplied, shall, without prejudice to any other right or remedy for the protection of the commissioners or the punishment of the offender, for every such offence forfeit and pay to the commissioners a sum not exceeding five pounds, and the commissioners may in addition thereto recover the amount of any damages by them sustained, and the commissioners may, notwithstanding any contract previously existing, discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid.

For preventing frauds and waste of gas.

55. If and whenever any person supplied with gas by the commissioners wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act, or wilfully fails to do anything which under this Act ought to be done for the prevention of the waste, misuse, or undue consumption of gas supplied by the commissioners, the commissioners may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of injury remains or is not remedied, and also may recover, in any court of competent jurisdiction, from every person so offending, the amount of all loss, damage, or injury which the commissioners may sustain by reason of any such thing or failure; and the remedies of the commissioners under this enactment shall be in addition to their other remedies in that behalf.

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Quality of gas.

56. All the gas supplied by the commissioners shall be at least of such quality as to produce from a union jet burner capable of consuming five cubic feet of gas per hour under a pressure equal to a column of water five tenths of an inch in height a light equal in intensity to the light produced by twenty-five sperm candles of six in the pound burning one hundred and twenty grains per hour.

Commissioners to maintain apparatus to test illuminating power of gas.

57. The commissioners shall, within six months after the passing of this Act, provide in some convenient part of their works an experimental meter furnished with a union jet or other approved burner capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas, and so situate and arranged as to test all the gas supplied by the commissioners, and shall at all times thereafter keep and maintain such experimental meter and apparatus in good repair and working order.

Provision for testing quality of gas.

58. Any five consumers of gas may, by order in writing, appoint some competent person, not being one of themselves, to proceed to the works of the commissioners; and the person so appointed may, at any reasonable hour in the daytime, on producing the said order, enter on the premises of the commissioners, and in the presence of the superintendent or other officer of the commissioners make experiment of the illuminating power of the gas by means of the experimental meter and other apparatus by this Act directed to be provided; and the commissioners and their officers shall afford all reasonable facilities and assistance for making such experiment; and if it shall be proved to the satisfaction of the sheriff, after hearing the parties, that the illuminating power of the gas supplied by the commissioners did not, when so tested as aforesaid, equal the illuminating power by this Act prescribed, or that the commissioners or their officers refused to afford such reasonable facilities as aforesaid, or hindered or prevented the making of such experiment, the commissioners shall in any such case be liable in such a penalty, not exceeding *twenty pounds*, as the sheriff shall determine.

Costs of experiment to be paid according to the event.

59. The costs of such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the sheriff, shall be ascertained by the sheriff, and, in the event of any penalty being imposed on the commissioners, shall be paid, together with such penalty, by the commissioners, but in the event of no penalty being so imposed, such costs shall be paid to the commissioners by the persons complaining.

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Recovery of sums owing to commissioners.

60. Where any person fails to pay any gas rent or any rate or any sum whatever due under this Act to the commissioners, the commissioners may recover the same, with costs, including the costs of cutting off the gas, if the same shall have been cut off by the commissioners, by proceedings in any court of competent jurisdiction, and their remedies under this enactment shall be in addition to their other remedies for the recovery thereof.

Recovery of penalties.

61. All penalties under this Act may be recovered before the sheriff, under the provisions of the Summary Procedure Act, 1864, at the instance of any person injured by fault of the commissioners when the penalty is exigible from the commissioners, otherwise at the instance of the clerk of the commissioners.

SCHEDULES.

SCHEDULE (A.)

Form of Annuity Certificate.

No.

This is to certify that *A.B.* [*name and designation*] is entitled to receive from the Gas Commissioners of [*insert name of the burgh*] an annuity of pounds, payable on the first day of [*insert date for payment*] in each year, beginning the first payment thereof on the first day of [*insert date*] and so forth thereafter, and which annuity is preferably secured on the property and works vested in the said commissioners under "The Burghs Gas Supply (Scotland) Act, 1876," and to be acquired or constructed by them, and on the several rates and revenues to be levied and received by them under that Act.

Dated this day of one thousand eight hundred and .

[*Signed by two commissioners and treasurer.*]

SCHEDULE (B.)

Form of Transfer of Annuity Certificate.

I *A.B.* [*name and designation*], in consideration of the sum of pounds [*or other consideration, as the case may be,*] paid to me by *C.D.* [*name and designation*], do hereby transfer to the said *C.D.*, and his executors, administrators, or assignees, the annuity of pounds secured by annuity certificate No. [*as the case may be*] of "The [*insert the name of burgh*] Gas Annuities," created under and by virtue of "The Burghs Gas Supply (Scotland) Act, 1876," now standing in my name in the books of the Gas Commissioners of [*insert name of burgh*], with the rights and privileges and subject to the conditions and provisions specified in the said Act. And I the said *C.D.* do hereby agree to hold the said annuity, subject to the same conditions and provisions. In witness whereof [*insert testing clause according to the form of the law of Scotland, if executed in Scotland, and if executed in England or elsewhere the form of attestation used in England*].

A.D. 1876.

SCHEDULE (C.)

Form of Mortgage.

Mortgage No.

By virtue of "The Burghs Gas Supply (Scotland) Act, 1876," we, the gas commissioners acting under the authority of the said Act for the burgh of [*insert the name of the burgh*], in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the treasurer to the said commissioners for the purposes of the said Act, do hereby grant, convey, and assign to the said [*name of mortgagee*], and his executors, administrators, and assignees [*as the case may be*], the property and works vested and hereafter to be vested in the said commissioners, and the rates and charges to be levied by them under the authority of the said Act, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter in virtue hereof remain as a loan to the said commissioners, for the purposes aforesaid, until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be endorsed hereon, and signed by the said mortgagee or his foresaids and by the treasurer to the said commissioners, and which minute or minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of said mortgagee or his aforesaids, or of the said treasurer, nor tested; and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum), the said commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof, and delivered herewith, and that at the several times mentioned in such warrants, upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to the said commissioners for the contents of such warrants, declaring that the said mortgagee and his foresaids shall not be entitled to make, and that the said commissioners shall not be bound to recognize or register, any partial assignation of these presents, or of the sums of money, principal or interest, herein contained; and that the said commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his

foresaids for or in relation to the preparation, revision, adjustment, or execution of this mortgage, or of any discharge, renunciation, release, assignation, or minute of postponement or renewal thereof. In witness whereof [*testing clause according to law of Scotland*]. A.D. 1876.

[*Signed by two commissioners and treasurer.*]

SCHEDULE (D.)

Form of Interest Warrant.

[*Name of burgh*] Gas.

Mortgage No. , dated 18 .

Interest Warrant—

		£	*s.*	*d.*
For	pounds shillings			
and	pence - - - -			
	Less income tax - - -			
		£		

Payable on eighteen hundred and ,
at the .

Treasurer.

SCHEDULE (E.)

Form of Discharge.

[*Name of burgh*] Gas.

Received from the treasurer to the gas commissioners acting under "The Burghs Gas Supply (Scotland) Act, 1876," on their behalf, the sum of , being the principal sum contained in the within mortgage (all interest due thereon having been paid), and the said mortgage is now delivered up as paid.

Dated this day of eighteen hundred and .

Burghs and Populous Places (Scotland) Gas Supply.

A

BILL

To make provision for lighting Burghs and Populous Places in Scotland with Gas.

(*Prepared and brought in by Sir Windham Anstruther, Mr. Orr Ewing, Mr. Grieve, and Mr. William Holms.*)

Ordered, by The House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 5.]

Under 5 *oz.*

Burghs (Scotland) Gas Supply Bill.

Changed from

BURGHS AND POPULOUS PLACES (SCOTLAND) GAS SUPPLY BILL.

[AS AMENDED BY THE SELECT COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Application of Act limited.
3. Interpretation of terms.

I.—*Adoption of the Act.*

4. Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.
5. If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.

II.—*Incorporation of Acts.*

6. Incorporation of Acts.

III.—*The Commissioners; their Proceedings.*

7. Authority for executing Act.
8. Power to commissioners to appoint committee.
9. Two or more burghs may amalgamate.
10. Meetings of committee.
11. Vacancies not to invalidate acts of commissioners.
12. Minutes of proceedings.
13. Contract for supply of gas not to disqualify commissioners.
14. Payment of rates not to disqualify any judge.
15. Books and accounts to be kept.
16. Auditor to be appointed.
17. Accounts to be balanced.

IV.—*General Powers and Obligations of Commissioners.*

Clauses.
18. Commissioners may erect gasworks and supply public and private lights in certain cases.
19. Commissioners may purchase gasworks.
20. Provisions for case of burghs in which there are gas companies not incorporated.
21. Provisional order in case of commissioners or company having statutory powers.
22. After decree of sheriff commissioners may apply for provisional order.
23. Commissioners to discharge debts of company, and undertaking of company to vest in commissioners.
24. Act equivalent to general conveyance of lands.
25. Annuities to vest in shareholders of company, subject to provisoes.
26. Actions not to abate.
27. Company to cease to supply gas.
28. Ultimate dissolution of company.

V.—*Borrowing Powers of Commissioners.*

29. Power to borrow on mortgage.
30. Form of mortgage.
31. Mortgages may be accompanied with interest warrants.
32. Commissioners may borrow on credit of a cash account.
33. Manner in which mortgages and orders on bank account to be signed and executed.
34. Arrears may be enforced by appointment of a judicial factor.
35. Power and duties of judicial factor.
36. Mortgages to be personal estate.
37. Discharge of mortgages.
38. Providing for regular payment of annuities.
39. Application of money borrowed.
40. Guarantee rate.
41. Assessment and levy of rate.
42. Sinking fund.

VI.—*General Provisions.*

Clauses.
43. Commissioners to fix rates for gas.
44. Commissioners may contract to light adjoining burghs.
45. Supply of adjacent districts.
46. Dispensing with notice as to interference with streets.
47. Obligation on commissioners as to supply.
48. Gas pipes may be put in buildings.
49. Gas to be consumed by meter.
50. Notice to commissioners putting up or removing meters.
51. Repair of meters.
52. Power to commissioners to let meters.
53. Register of gas meter to be primâ facie evidence.
54. Power to remove meters and fittings.
55. Fraudulently injuring meters, &c.
56. For preventing frauds and waste of gas.
57. Quality of gas.
58. Commissioners to maintain apparatus to test illuminating power of gas.
59. Provision for testing quality of gas.
60. Costs of experiment to be paid according to the event.
61. Recovery of sums owing to commissioners.
62. Recovery of penalties

SCHEDULES.

A

B I L L

TO

Make provision for lighting Burghs in Scotland with Gas. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Burghs Gas Supply (Scotland) Act, 1876."

Application of Act limited.

2. The provisions of this Act shall not empower the town council or commissioners of police of any burgh, in which this Act shall be adopted, to supply gas within any part of the area of supply over which the town council or commissioners of police of any other burgh, or any gas company incorporated by Act of Parliament, shall have statutory powers to supply gas at the date of the adoption of this Act in such burgh, without previously purchasing the whole or such portion of the undertaking as applies to such burgh.

Interpretation of terms.

3. The following expressions in this Act have the meanings hereby assigned to them; that is to say,

"Burgh" shall mean Royal burgh and Parliamentary burgh, and includes every burgh and place having town councillors or commissioners of police elected under any General or Local Act of Parliament:

"Commissioners" means the authority for executing this Act in any burgh in which the same shall be adopted:

"Elector" means any person entitled to vote in the election of town councillors or police commissioners in any burgh or any ward thereof:

"Lands and heritages" has the same meaning in this Act as in the Act of the seventeenth and eighteenth year of the reign of Her present Majesty, chapter ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland":

"Company" means any person, persons, or company carrying on the business of a gas company:

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"Shareholder" means shareholder or holder of stock of any gas company whose works may be acquired by the commissioners of any burgh under the provisions of this Act:

"Annuity" means any annuity payable under this Act:

"Annuitant" means any person entitled to and holding an annuity payable under the provisions of this Act:

"Sheriff" includes sheriff substitute:

"Clerk," "treasurer," and "collector" mean the clerk, treasurer, and collector respectively who may be appointed by the commissioners of any burgh which shall adopt the provisions of this Act.

I.—*Adoption of the Act.*

Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.

4. It shall be lawful for the town council in any burgh in which there is a town council, and for the commissioners of police in any other burgh, by a majority of the members who are present at a meeting of such town council or commissioners specially called for the purpose, to resolve that this Act shall be adopted in and applied to the burgh, and to appoint a day not earlier than the third and not later than the thirtieth lawful day after the completion of the then next ensuing annual election of councillors or commissioners of police, as the case may be, for the burgh, for holding a second special meeting to resume consideration of such resolution; and a copy of any minute containing such resolution and appointment shall be inserted once in each newspaper published in the burgh one month at least before such next annual election; and if there be no newspaper published in the burgh, a copy of such minute shall be delivered or transmitted through the post office to each elector and to the sheriff clerk and clerk of the peace of the county within which the burgh is situated, and shall be inserted once in a newspaper published in such county, or in an adjoining county, one month at least before such next annual election.

If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.

5. It shall be lawful for the town council or commissioners of police, as in the preceding section mentioned, at such second special meeting or at any adjourned special meeting, (of which adjourned meeting four days notice in writing shall be given to each member of the council or commissioner of police, as the case may be,) on resuming consideration of such resolution, either to approve or disapprove the same; and if such resolution shall be approved by a majority of two thirds at least of the members of the council or commissioners of police, as the case may be, who are present at such second special meeting or at such adjourned meeting, the town

council or commissioners shall not proceed to carry the same into effect until after the expiration of one month of the date of such second meeting, and during such month such resolution shall be advertised once, at least, in each week in some newspaper circulating within the burgh, if any be, or otherwise in some newspaper circulating in the county in which the burgh is situated, and public notice thereof shall also be given by means of placards posted in public places within the burgh; and if before the expiration of such month a remonstrance in writing by one-twentieth or more of the ratepayers against carrying into effect such resolution or any part thereof be lodged with the Commissioners, such resolution shall not be carried into effect unless confirmed by a majority of the ratepayers qualified and voting at a poll to be taken, and upon such remonstrance being lodged as aforesaid, the Commissioners, or the chief or senior magistrate of such burgh, shall be bound to direct a poll to be taken in the manner prescribed in regard to polls of householders taken with reference to the adoption of "The General Police and Improvement (Scotland) Act, 1862;" and the whole enactments and procedure provided in regard to such polls shall, so far as applicable, extend and apply to the poll hereby authorized and directed to be taken; but provided also, that if the said resolution shall not be so confirmed, it shall be lawful to the Commissioners, as often as they shall think proper thereafter, but not sooner than three years from the date of any preceding resolution, by such and the like procedure again to adopt the same; and a copy of the minute of the meeting if such resolution is confirmed by the ratepayers, shall, at the expiration of fourteen days be registered in the sheriff court books of the county in which the burgh is situated; and the provisions of this Act shall be in force from and after such registration, the date of which shall be held as the date of the adoption of this Act.

II.—*Incorporation of Acts.*

6. "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts (1845) Amendment Act, 1860," shall, except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, be incorporated with and form part of this Act. 8 & 9 Vict. c. 19. and 23 & 24 Vict. c. 106. incorporated.

The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall, except sections eighty-four and eighty-five, and except where expressly varied by this Act, be incorporated with this Act, and Part of 10 & 11 Vict. c. 16. incorporated.

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applied to the money borrowed and mortgages granted under the powers of this Act.

10 & 11 Vict. c. 15. incorporated.

"The Gasworks Clauses Act, 1847," except the clauses thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall, except where the same are at variance with the provisions of this Act, be incorporated with and form part of this Act.

The several words and expressions to which by the Acts partially incorporated with this Act meanings are assigned, shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, that in the Acts partially incorporated with this Act and also in this Act the expressions "the undertakers" and "the commissioners" shall mean the commissioners acting in the execution of this Act; "the undertaking" shall mean the gasworks, business, property heritable and movable, plant, pipes, meters, and other assets of any company, or of any town council, or commissioners of police to be purchased by and vested in the commissioners under the provisions of this Act; and the word "street" shall mean and include street, highway, quay, wharf, bridge, railway crossing, bridleway, footway, carriageway, side pavement, turnpike, statute labour, or other road, thoroughfare, lane, passage, square, court, or place within any burgh brought under the provisions of this Act.

III.—*The Commissioners; their proceedings.*

Authority for executing Act.

7. The commissioners for executing this Act in any burgh in which the same shall be adopted shall be,—

(1.) In any burgh having a town council, the town council;

(2.) In any other burgh, the commissioners of police.

Power to commissioners to appoint committee.

8. The commissioners may from time to time appoint a committee of their number (to be called "the gas committee") for the execution of any of the purposes of this Act, and may appoint a convener of such committee, and may from time to time remove any member of such committee, and appoint another commissioner in his room, and may delegate to any such committee such of the powers and authorities of the commissioners as the commissioners think fit, and where such powers and authorities are not specially limited and defined by the commissioners, every such committee shall have and may exercise all powers and authorities necessary to enable them to transact the business committed to them; and the acts and proceedings of any such committee within the limits of such delegation shall be deemed the acts and proceedings of the commissioners; and

the quorum of any such committee shall, unless where otherwise declared, be three, and the convener thereof shall be chairman; and the commissioners may from time to time make such regulations as they think fit for the guidance of any such committee.

Two or more burghs may amalgamate.

9. It shall be lawful for the town councils or commissioners of police of two or more burghs who have adopted this Act to amalgamate for the purposes of this Act (and on such amalgamation the committees, when appointed by them, shall be called "The Joint Gas Committee"), and the Joint Gas Committee shall have, exercise, and enjoy all the powers and authorities within the area of the combined burghs which are by this Act conferred on the commissioners of any single burgh.

Meetings of committee.

10. Every committee appointed by the commissioners may meet from time to time and may adjourn from place to place as they think proper for carrying into effect the purposes of their appointment; and at all meetings of the committee one of the members present shall, in the absence of the convener, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Vacancies not to invalidate acts of commissioners.

11. No proceeding of the commissioners or of any committee shall be invalidated or be illegal in consequence of there being any vacancy or vacancies in the number of commissioners at the time of such proceeding.

Minutes of proceedings.

12. The commissioners shall cause entries of the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk, under the superintendence of the commissioners; and every such entry shall be signed by the chairman of the meeting at which the proceedings took place; and such entry so signed, or a copy thereof certified by the clerk, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commis-

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sioners, or of any mortgagee of the property of the commissioners, or of any annuitant.

Contract for supply of gas not to disqualify commissioners.

13. No person shall be disqualified from being, continuing, or acting as a commissioner by reason of his being concerned in any contract entered into with the commissioners for the supply of gas, or of his being a mortgagee of the commissioners or an annuitant.

Payment of rates not to disqualify any judge.

14. No person liable under this Act in payment of rates or other consideration in respect of a supply of gas shall on that account, or on account of being a commissioner, be disqualified from acting as a justice of peace or sheriff, or exercising any judicial or other function in the carrying out of this Act.

Books and accounts to be kept.

15. The treasurer shall keep separate and distinct books and accounts altogether apart from and unconnected with the other accounts and books of the commissioners, and such books and accounts shall contain a full and accurate record of all moneys received and paid by the treasurer or the servants of the commissioners under the powers and provisions of this Act.

Auditor to be appointed.

16. On or before the *first day of May* in every year after this Act shall be adopted by a burgh, the commissioners shall apply to the sheriff, and the sheriff shall appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the commissioners, or holding office under them,) to audit the accounts of the commissioners; and such auditor shall continue in office until superseded by the appointment of another, and shall be allowed such reasonable remuneration as shall be fixed by the sheriff; and in case in any year the office of such auditor shall, before such accounts have been audited by him, become vacant by death, or from any other cause, the sheriff shall from time to time appoint an auditor to supply such vacancy; and the whole books, accounts, vouchers, and documents of the commissioners in relation to their undertaking shall be laid before the auditor for the purpose of such audit.

Accounts to be balanced.

17. The accounts to be kept by the treasurer shall be brought to a balance on the *fifteenth day of May* in each year for the year immediately preceding, and shall be audited within thirty days thereafter, and shall be submitted along with the auditor's report to a general meeting of the commissioners, which shall be held upon the second Monday of July annually, at which meeting the accounts shall be examined, and an abstract statement and account, authenticated by the docquet and subscription of the chairman of the meeting and the clerk, shall be printed, and a copy

thereof shall be inserted once in each newspaper published in the burgh within ten days of the date of such general meeting, or if there be no newspaper published in the burgh, a copy of such abstract statement and account shall be inserted once in a newspaper published in the county in which the burgh is situated, or in an adjoining county. The commissioners shall also keep printed copies of such abstract statement and account at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

IV.—*General Powers and Obligations of Commissioners.*

Commissioners may erect gasworks and supply public and private lights in certain cases.

18. The commissioners may (subject to the provisions of this Act) erect, lay down, improve, extend, and maintain gasworks, gasometers, and pipes for the distribution of gas, and execute all such works as may be necessary for the efficient manufacture and supply of gas for public and private purposes, and may purchase, acquire, and hold lands and other property for these purposes, and may carry on any such operations and business as are for the time being usually carried on by gas companies.

Commissioners may purchase gasworks.

19. Where there is a company, whether incorporated by Act of Parliament or not, the commissioners may, subject to the provisions of this Act, buy from such company, and the directors of such company by and with the authority of three fifths of the shareholders for the time being who may be present either personally or by proxy at some general meeting of the company specially convened for the purpose, may sell and transfer to the commissioners, on such terms as may be agreed on between the commissioners and the company, all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attached to the same at the time of purchase.

Provisions for case of burghs in which there are gas companies not incorporated.

20. Where there is a company not incorporated by Act of Parliament, if the commissioners shall give notice to such company that they are willing to buy or to treat for the purchase of all the rights, powers, and privileges, and all the lands, premises, works, and other property of the company, and if such company shall consent to sell the same the commissioners shall purchase the undertaking on terms mutually agreed upon or to be fixed by arbitration in the manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, respecting matters thereby directed to be settled by arbitration, and if such company shall refuse to sell the same, or shall not within two calendar months

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after the service of such notice return any answer, the commissioners may present a petition to the sheriff stating the facts, and the sheriff shall, on being satisfied by evidence of the facts as stated, decree accordingly, and on such decree being pronounced the commissioners shall have and may exercise all the powers conferred by this Act.

Provisional orders in case of commissioners or company having statutory power.

21. In any case in which the limits of supply of any other commissioners or company include by the authority of any Act of Parliament the whole or part of any burgh in which this Act shall have been adopted, and in which the commissioners of such last-mentioned burgh shall not be able to agree with such other commissioners or company for the purchase of their works, or of so much thereof as may be within the burgh, the commissioners may apply to the Board of Trade for a provisional order to authorize the purchase of such works or part thereof, and such application shall be deemed to be an application under the "Gas and Water Facilities Act, 1870," as if the commissioners had been named in that Act as persons who might apply for a provisional order.

After decree of sheriff commissioners may apply for provisional order.

22. Within one calendar month after the sheriff shall have pronounced decree as aforesaid, the commissioners may, if they think fit, before proceeding to execute the powers contained in the nineteenth section of this Act, apply to the Board of Trade for a provisional order to authorise the purchase of the undertaking of the company to which such decree refers, and such application shall be deemed to be an application under the "Gas and Water Facilities Act, 1870," as if the commissioners had been named in that Act as persons who might apply for a provisional order.

Commissioners to discharge debts of company, and undertaking of company to vest in commissioners.

23. When the commissioners shall acquire the works of any gas company they—

1. Shall pay off the mortgage and bond debts, and all other debts and liabilities of the company, and shall deliver to the company, or place upon record, discharges and receipts for such mortgage and bond and other debts, to the satisfaction of the sheriff; or
2. Shall otherwise as may be agreed upon between the commissioners and the company and any creditors of the company relieve the company from all liability for payment of such mortgage and bond debts, and all other debts and liabilities of the company, to the satisfaction of the sheriff; or
3. Shall consign the amount of such debts in any bank in Scotland incorporated by Act of Parliament or Royal Charter,

in case of any obstacle existing or arising to prevent any of such debts from being paid, and discharges thereof obtained, or to prevent the company being relieved therefrom, and such consignation of the consigned money having been made at the sight and to the satisfaction of the sheriff, so as to secure the payment thereof to the persons who shall show right thereto, shall have the same effect as the delivery or recording of discharges thereof or granting of bonds or other deeds of relief therefor.

The sheriff, when satisfied that the whole of the mortgage and bond and other debts of the company have been paid and discharged, or that valid and sufficient bonds or other deeds of relief of the company therefrom have been granted by the commissioners, shall, on the application of the commissioners, grant a certificate to that effect, which certificate shall enumerate the said mortgage bonds and other debts, and set forth the total amount of them; and upon such certificate being granted, the undertaking of the company, and their whole rights, powers, and privileges, lands, buildings, works, mains, pipes, stores, machinery, meters, and other apparatus, property, or estate, heritable and moveable, real and personal, and assets, money in the hands of bankers or others, belonging to the company named in the certificate of the sheriff, and debts due to the company as at the date of the agreement for the acquisition of the works, and all money earned and to be earned, due or to become due, from that date until the undertaking shall become vested in the commissioners of the burgh described in the said certificate, shall vest and become vested in and transferred to the said commissioners, but subject to and under burden of payment of any annuity that may have been agreed upon to be paid as herein-before provided, and the burdens, debts, and obligations of the company: Provided always, that—

Within six months after the date of such certificate the commissioners shall produce to the Commissioners of Inland Revenue a copy of this Act, printed by Her Majesty's printers, and there shall be annexed to it a certificate setting forth the name of the burgh which has adopted the Act, the name of the company whose works have been purchased, the price fixed by agreement, and also a certified copy of the certificate by the sheriff of the mortgage bonds and other debts, and this certificate shall be authenticated as correct by the treasurer of the commissioners, and such certificate shall be duly stamped with an ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance of the said undertaking for the consideration ascertained as provided

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by this Act; and if the commissioners shall not, within the said period of six months, produce to the Commissioners of Inland Revenue such copy of this Act and certificate, duly stamped as aforesaid, the said ad valorem stamp duty shall be recoverable from the commissioners, with full costs of suit, and all costs and charges attending the same.

Act equivalent to general conveyance of lands.

24. After the mortgage and bond and other debts of the company shall have been paid and discharged or consigned, or bonds or other deeds of relief therefor granted as aforesaid, and a certificate to that effect shall have been granted by the sheriff in manner herein provided, this Act shall, as respects the lands and heritages to become vested in the commissioners as aforesaid, be equivalent to a general conveyance thereof by the company according to the law of Scotland; and thereupon, in order to the completion of a feudal title to such lands and heritages in the commissioners, it shall be lawful for the commissioners to expede a notarial instrument, which shall specially set forth this Act and the said certificate, and to record such notarial instrument in the manner and to the effect prescribed by "The Titles to Land Consolidation (Scotland) Act, 1868," with reference to lands conveyed by general disposition or conveyance, and such notarial instrument shall contain provisions constituting any annuity agreed upon to be paid by the commissioners to the company a real and preferable burden upon the lands and heritages so conveyed.

Annuities to vest in shareholders of company.

25. In the event of the agreement between the commissioners and the company being for payment by way of annuity, the following provisions shall have effect; firstly, the amount of the annuity, as the same shall be fixed by agreement or settled by arbitration in the manner herein-before provided, shall be payable in every year on such day or days yearly or half-yearly as may be agreed upon between the commissioners and the company, or settled as herein-before provided; secondly, the said amount shall be paid in the form of annuities, which shall be called by the name of the burgh issuing the same, and which shall vest in and belong and be paid to the several persons, their executors, administrators, or assignees, who at the date of the agreement to purchase the undertaking of the company were shareholders in the company, according to their respective rights and interests in the share capital of the company, subject to the following provisions; viz.,

Annuity certificates to be granted.

(A.) The commissioners shall, at their own expense, grant and issue to every shareholder of the company, or to his executors, administrators, or assignees, on delivery to the

commissioners of the certificate, or on production of other evidence of the share or stock or interest held by him in the capital of the company, annuity certificates in the form of the Schedule (A.) to this Act for the amount of the annuities to which such shareholder is entitled under the provisions of this Act:

Amounts for which certificates shall be issued.

(B.) The annuity certificates issued by the commissioners to any person entitled thereto shall be so many, and each of them for such sum, but not exceeding in the aggregate the whole amount of his annuities, as he by notice in writing to the commissioners shall require: Provided that if or so far as any person does not require any particular number of certificates to be issued to him, the commissioners shall issue to such person one or more certificates, as they shall think fit:

Certificates to be numbered and renewed.

(C.) The annuity certificates shall be numbered in arithmetical progression, beginning with No. 1, and every annuity certificate shall be distinguished by its appropriate number; and the annuity certificates shall be renewed by the commissioners when lost, worn out, or damaged, on production to them, or their clerk or treasurer, of evidence of the right of the annuitant requiring such renewal; and if in any case the commissioners shall not be satisfied with the evidence offered by any annuitant, he may appeal to the sheriff, who shall decide summarily what evidence is requisite, and whose decision shall be final; and for every such renewed certificate the commissioners may demand any sum not exceeding two shillings and sixpence:

Register of annuities.

(D.) The commissioners shall keep a book, called "The Register of [*name of burgh*] Gas Annuities," and enter therein from time to time, in alphabetical order, the names and designations of the several annuitants respectively entitled to the annuities, and the respective amounts of their annuities:

Annuities personal estate.

(E.) The annuities shall be moveable or personal estate, and transmissible as such:

Annuities may be transferred.

(F.) Every annuitant may sell and transfer all or any of his annuities; and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated, and such deed may be in the form of the Schedule (B.) to this Act, or to the like effect:

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Transfer of annuities to be registered.

(G.) Every such transfer, when duly executed, shall be delivered to the commissioners, and kept by them, and they shall keep a book called "The Register of Transfers of the [*name of burgh*] Gas Annuities," and shall enter every such transfer therein, and shall endorse such entry on the transfer, such endorsement to be signed by the treasurer or clerk, and shall, on demand, deliver a new certificate to the transferee; and for every such entry of a transfer with such endorsement and certificate the commissioners may demand any sum not exceeding two shillings and sixpence; and on the request of any transferee an endorsement of the transfer to him shall be made on the certificate transferred, instead of a new certificate being granted; and such endorsement, being signed by the treasurer or clerk, shall be considered in every respect the same as a new certificate; and until such transfer be so delivered to the commissioners the transferee shall not be entitled to receive any part of the annuities transferred:

Closing of transfer books.

(H.) The commissioners may close the register of transfers of annuities for any period not exceeding fourteen days in each year; and any transfer made during the time when such register is closed shall, as between the commissioners and the transferee, but not otherwise, be held as made after that time:

Transmission of annuities by other means than transfer to be authenticated by a declaration.

(I.) If the right to any annuity becomes transmitted in consequence of the death or bankruptcy or insolvency of any annuitant, or in consequence of the marriage of a female annuitant, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as herein-after provided; and until the transmission be so authenticated, no person claiming by virtue thereof shall be entitled to receive any part of the annuity transmitted:

Contents of declaration in all cases.

(J.) Every such declaration shall state the manner in which and the party to whom the annuity is transmitted, and shall be made and signed by some credible person before a justice of the peace or a sheriff; and such declaration shall be left with the commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of annuities, and for every such entry the commissioners may demand any sum not exceeding one shilling;

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(K.) If the transmission be by virtue of the marriage of a female annuitant, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration or effecting thereof, and shall declare the identity of the wife with the holder of the annuity; and if the transmission be by virtue of any will or testamentary instrument, or by intestacy, the confirmation or testament testamentar, or testament dative, or the probate or letters of administration, or an official copy or extract thereof, shall, with the declaration, be produced to the treasurer or clerk, and upon such production in either of those cases the treasurer or clerk shall make an entry of the declaration in the register of transfers of annuities:

Contents of declaration in cases of transmission by marriage or will.

(L.) The commissioners shall not be bound to see to the execution of any trust, whether expressed, implied, or constructive, to which any annuity may be subject; and the receipt of the person in whose name any annuity stands in the register of annuities shall from time to time be a sufficient discharge to the commissioners for any money payable in respect of such annuity, notwithstanding any trust to which the same may then be subject, and whether or not the commissioners have had notice of such trusts, and the commissioners shall not be bound to see to the application of the money paid upon such receipt:

Commissioners not bound to regard trusts.

(M.) The annuities shall be computed from such day in each year as may be agreed upon between the commissioners and the company, and shall be paid at the office of the commissioners or their treasurer in the burgh from which they were issued in net money, clear of all deductions whatsoever (except income or property tax, or other tax in the nature thereof legally chargeable thereon):

Commencement and payment of annuities.

(N.) The commissioners may from time to time, by agreement with any annuitant, purchase or redeem all or any of his annuities; and when any annuity is so redeemed, the commissioners shall take a transfer of said annuity which shall set forth the price paid, and an entry of the redemption thereof shall be made in the register of the Burgh's Gas Annuities, and thereupon the redeemed annuity shall be wholly extinguished:

Power to redeem annuities by agreement.

(O.) If any annuity or part of an annuity being payable be not paid on demand thereof in writing made by any annuitant or his agent to the commissioners, the annuitant may sue

Annuities recoverable by action.

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for and recover the same from the commissioners in the Sheriff Court, with interest at the rate of *five pounds* per centum per annum till paid, and expenses:

Annuitants to be preferential creditors for annuities.

(P.) The annuitants shall be creditors of the commissioners for payment of the annuities respectively herein-before directed to be paid to them, and of the interest thereon and expenses incident thereto; and the said annuities, and the interest on moneys authorised to be borrowed under the authority of this Act, are hereby constituted primary and preferential burdens and liens on the undertaking, and on any other works and property from time to time to be acquired or constructed by the commissioners, and on the rates and charges leviable by and on the other revenues of the commissioners under this Act.

Actions not to abate.

26. No action, suit, prosecution, or other proceeding whatsoever commenced either by or against the company in relation to the undertaking of the company to be vested in the commissioners as aforesaid previous to such vesting taking place, shall abate or be discontinued or be prejudicially affected thereby, but all such actions, suits, prosecutions, and other proceedings shall continue and take effect, either in favour of or against the commissioners, in such and the like manner as the same would have continued and taken effect in relation to the company if such vesting in the commissioners had not taken place.

Company to cease to supply gas.

27. From and after the date when the commissioners shall become vested with the undertaking of any company under the provisions of this Act, the company shall cease to manufacture, sell, and supply gas.

Ultimate dissolution of company.

28. From and after the date of the certificate to be granted by the sheriff in manner herein-before provided, the company shall subsist only for the purpose of securing the annuity certificates being granted to the shareholders for their respective annuities as herein-before provided, and of obtaining from the commissioners discharges of the mortgage and other debts and obligations due by the company which, under the provisions of this Act, are to be paid by the commissioners, or of enforcing against the commissioners the company's right to relief from such mortgage and other debts and obligations, for winding up the affairs of the company, and carrying into effect the purposes of this Act, so far as relating to the company; and the directors of the company in office at the date of the said certificate being granted, and the survivors of them, shall continue without re-election to hold office, and shall have

full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned, and on the fulfilment of the said purposes the company shall be dissolved. A.D. 1876.

V.—*Borrowing Powers of Commissioners.*

Power to borrow on mortgage.

29. It shall be lawful for the commissioners to borrow on mortgage any money which may be necessary for the purchase or erection of gasworks for the burgh, and to grant mortgages of any undertaking acquired, and of any works and property to be acquired or constructed by them, and also of any rates or charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed and interest thereon; and if, after having borrowed any sum of money, the commissioners pay off the same otherwise than by a sinking fund, it shall be lawful for them again to borrow the amount so paid off, and so from time to time.

Form of mortgage.

30. Every mortgage to be granted by the commissioners shall be by deed duly stamped, in which the consideration shall be truly stated, and may be in the form of the Schedule (C.) to this Act annexed.

Mortgages may be accompanied with interest warrants.

31. It shall be lawful for the commissioners to issue along with any such mortgage, and during the period of any postponement of the term of payment thereof, interest warrants in the form of the Schedule (D.) to this Act annexed, or to the like effect, signed by the treasurer, for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist; and the delivery to the commissioners or their treasurer, or to any person on their behalf, of any such interest warrant, duly stamped as a receipt, shall be a valid and sufficient discharge to the commissioners for the interest in respect of which the same was issued.

Commissioners may borrow on credit of a cash account.

32. It shall be lawful for the commissioners to take from any banking company credit on a cash account, to be opened and kept with such banking company in the name of the commissioners, according to the usage of bankers in Scotland, to the extent required as aforesaid, and to make and grant mortgages of the property and works forming their undertaking, and of any rates or charges leviable by them under the authority of this Act, in security of the payment of the amount of such credit, or of the sums advanced from time to time on such cash account, with interest thereon.

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Manner in which mortgages and orders on bank account to be signed and executed.

33. Every mortgage to be granted by the commissioners may be written or partly written and partly printed, and shall be signed by at least two of the commissioners and the treasurer; and all drafts or orders on the cash account before mentioned shall be signed by any two of the commissioners authorised so to do, and shall be countersigned by the treasurer: Provided always, that no commissioner or treasurer shall, by his subscription of any such mortgage, draft, or order, be, or be held to have rendered himself, individually or personally liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Arrears may be enforced by appointment of a judicial factor.

34. It shall be lawful for any of the following persons to apply by summary petition to the Court of Session in either division thereof, or in the time of vacation to the Lord Ordinary on the bills, for the appointment of a judicial factor to manage the undertaking of the commissioners, with the powers after mentioned, and for such court or Lord Ordinary to appoint a judicial factor accordingly; that is to say,

1. Any annuitant or mortgagee having an annuity or interest on a mortgage in arrear to the amount of not less than one hundred pounds; or
2. Any mortgagee with principal or principal and interest in arrear to the amount of not less than five hundred pounds; or
3. Any annuitants or mortgagees having annuities, or interest on mortgages in arrear to the amount of not less than two hundred pounds in the aggregate; or
4. Any mortgagees with principal or principal and interest in arrear to the amount of not less than one thousand pounds in the aggregate.

Provided—

(*a.*) The arrear shall have existed for two months; and

(*b.*) The arrear shall have existed for twenty-one days after a demand for payment made in writing; and

(*c.*) The arrear with interest and expenses shall not have been paid before the application is advised.

An interlocutor pronounced under this section appointing a judicial factor shall not be subject to review or appeal.

Power and duties of judicial factor.

35. A judicial factor appointed under the preceding section shall, on finding security in common form, have and exercise all the powers and rights and be subject to all the obligations of the commissioners whose undertaking he is appointed to manage, and the judicial factory shall continue till all arrears, whether of prin-

cipal, annuities, or interest, due at the date of his appointment, and all such arrears subsequently arising, and all the expenses of the factory, including the expenses of the appointment, shall be paid, whereupon it shall be lawful for the commissioners to apply for the recal of the appointment of the judicial factor to the Court of Session in either division thereof, or, in time of vacation, to the Lord Ordinary on the bills, who may recall such appointment accordingly.

Mortgages to be personal estate.

36. All mortgages to be granted by the commissioners under the authority of this Act, and all money to be advanced and lent on the security of any rates or charges leviable by them, shall be moveable or personal estate, and transmissible as such.

Discharge of mortgages.

37. Any person entitled to any mortgage granted by the commissioners under the authority of this Act may discharge the same, and his right and interest therein, in favour of the commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the Schedule (G.) to this Act, or to the like effect; and such discharge, when signed by the person entitled to such mortgage and duly stamped, shall be valid and effectual to all intents and purposes.

Providing for regular payment of annuities.

38. The commissioners may from time to time apply any moneys borrowed under the authority of this Act with a view to the regular payment of annuities as they fall due; provided that they shall as soon as may be replace any moneys so applied out of any rates or charges which they are empowered to impose and levy under this Act.

Application of money borrowed.

39. The several sums borrowed by the commissioners under the authority of this Act shall be applied in the payment of the mortgage and other debts of the company, and in carrying the other purposes of this Act into execution; but the commissioners shall not apply any of the money so borrowed to the maintenance of the works acquired or to be constructed by them, or to the expenses of management, or to any other expenses properly payable out of revenue.

Guarantee rate.

40. It shall be lawful for the commissioners and they are hereby required from time to time to fix, impose, and levy such a rate, to be termed "The Gas Contingent Guarantee Rate," as may be required to pay any annuities and any interest due thereon, and the interest of money borrowed or to be borrowed under the provisions and for the purposes of this Act.

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Assessment and levy of rate.

41. The gas contingent guarantee rate shall be imposed, levied, and collected, on the requisition of the commissioners, by the authority in the burgh empowered by law to levy any assessment for police purposes therein, along with and in the same manner in all respects and from the same descriptions of persons and property as such assessment for police purposes; and the amount of such rate, when imposed, levied, and collected by such authority, shall be paid over to the commissioners for the purposes of this Act. All the powers, enactments, and provisions of law in force for the time with respect to the levying, payment, and recovery of assessments for police purposes within the burgh shall apply to the levying, payment, and recovery of the gas contingent guarantee rate by this Act authorised to be raised.

Sinking fund.

42. The commissioners shall, in every year after the second year from their commencing to supply gas, set apart as a sinking fund a sum of not less than one fortieth part of the sums from time to time borrowed, until such sums be respectively repaid, and such sinking fund shall from time to time be applicable to the redemption of mortgages and annuities, and to no other purpose, and shall be lodged in any bank in Scotland incorporated by Act of Parliament or Royal Charter, or invested in Government or on heritable securities, in the name of "(*name of burgh*) Gas Commissioners," at the discretion of the commissioners, until the same be applied for the purposes before specified.

VI.—*General Provisions.*

Commissioners to fix rates for gas.

43. The commissioners shall from time to time fix the price to be paid for gas to be supplied during any succeeding year or half year, and until such price be altered by the Commissioners, the price so fixed shall remain in force, provided that the price shall be such as will, as nearly as can be estimated, raise sufficient income to discharge all the costs and expenses of and incident to the manufacture and distribution of the gas made, together with the interest on all money borrowed in respect of the works, and to provide for a sinking fund for the repayment of such money, and for a depreciation and renewal fund sufficient to maintain the works in perpetuity and for all charges in advent to the occupation of such works, and the moneys received in respect of and incident to the manufacture and distribution of gas shall be applied to such purposes only, and any balance at the termination of any year shall be carried to the debit or credit of the succeeding year: Provided also, that the prices charged shall be the same to all consumers under like circumstances, and the revenue of the gas works shall be credited

with an amount for the gas consumed for public purposes, calculated at the rates charged to private consumers, which amount shall be a charge upon the rates leviable for public lighting.

Commissioners may contract to light adjoining burghs.

44. The commissioners may contract with any local authority adjacent to the burgh to supply gas within their respective limits, provided that there is no town council nor commissioners of police nor any gas company entitled (at the date of the passing of this Act) to supply gas within such limits.

Supply of adjacent districts.

45. The commissioners may supply gas to any district adjacent to the burgh not being supplied at the time of the adoption of this Act by any company, town council, or commissioners other than that of which the undertaking shall be purchased by the Commissioners.

Dispensing with notice as to interference with streets.

46. It shall not be necessary for the commissioners, before they proceed to break up for the purposes of this Act any street under the control of the commissioners, to give any notice of their intention so to do.

Obligation on commissioners as to supply.

47. The commissioners shall, on the request in writing of the owner or occupier of any building or part of a building within one hundred yards of which any main of the commissioners is laid, furnish to such owner or occupier a supply of gas for such building or part of a building on the following conditions, viz. :

First. That the person making such request do, if required by the commissioners, give to them, at his own expense, reasonable security for payment for the gas to be supplied;

Secondly. That such person do pay the cost of and the expenses of laying all necessary pipes for such supply beyond the line of street or road where the main of the commissioners is placed;

Thirdly. That such person do, if required by the commissioners, pay in advance the estimated amount of such cost and expenses;

and any dispute as to any matter arising under the present section shall be settled, upon the application of either party, by the sheriff, whose decision thereof shall be final.

Gas pipes may be put in buildings.

48. Subject to the provisions contained in this Act, and the Acts partially incorporated herewith, the commissioners may lay any pipe, branch, or other necessary apparatus, with the consent of the owner and occupier of any building, for the purpose of lighting the same or any adjoining building, and may, with the like consent, provide and set up any apparatus necessary for securing to any building a proper and sufficient supply of gas, and for measuring and ascertaining the extent of such supply.

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Gas to be consumed by meter.

49. Every consumer of gas supplied by the commissioners shall consume the gas by meter; and every meter measuring the consumption of gas, whether such meter is provided by the consumer or the commissioners, shall be subject to the inspection and approval of the officers and servants of the commissioners.

Notice to commissioners putting up or removing meters.

50. Before any person shall connect or disconnect any meter through which gas supplied by the commissioners is intended to be or has been registered, he shall give not less than twenty-four hours notice in writing to the commissioners of his intention to do so, and any person offending against this enactment shall forfeit and pay to the commissioners a sum not exceeding forty shillings.

Repair of meters.

51. Every consumer of gas supplied by the commissioners shall at all times, at his own expense, keep all meters whereby the consumption of such gas is registered in proper order for correctly registering such consumption, in default whereof the commissioners may cease to supply gas through such meters; and the commissioners shall at all reasonable times have access to and be at liberty to take off, remove, test, inspect, and replace any meter at their own expense if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to commissioners to let meters.

52. The commissioners may let for hire any meter and any fittings thereto, on such terms with respect to the repair of such meter and fittings, and for securing the safety and return of the same to the commissioners, as may be agreed upon between the hirer and the commissioners, and such hire shall be recoverable in the same manner as moneys due to the commissioners for gas; and such meters and fittings shall not be subject to any diligence at the instance of the landlord for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law, or any proceedings in bankruptcy against the persons in whose possession the same may be.

Register of gas meter to be primâ facie evidence.

53. The register of the meter shall be primâ facie evidence of the quantity of gas consumed.

Power to remove meters and fittings.

54. It shall be lawful for the commissioners, after twenty-four hours notice in writing under the hand of the manager of their works or some other one of their officers to the occupier, or if unoccupied, then to the owner or lessee or the person in charge or reputed to be in charge of any land, house, or building in which any pipes, mains, meters, or fittings belonging to the commissioners are laid or fixed, and through or in which the supply of gas shall, from any cause other than the neglect or default of the commis-

sioners, be discontinued, to enter such land, house, or building between the hours of nine in the morning and six in the afternoon, for the purpose of removing, and to remove, such pipes, meters, or fittings, repairing all damages caused by such entry or removal; and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or, if such person or his address be not known, then by being affixed on some conspicuous part of such land, house, or building.

Fraudulently injuring meters, &c.

55. Every person who shall willingly, wilfully, fraudulently, or by culpable negligence injure or suffer to be injured any meter or fittings belonging to the commissioners, or shall fraudulently alter or prevent the index to any meter from duly registering the quantity of gas supplied, shall, without prejudice to any other right or remedy for the protection of the commissioners or the punishment of the offender, for every such offence forfeit and pay to the commissioners a sum not exceeding five pounds, and the commissioners may in addition thereto recover the amount of any damages by them sustained, and the commissioners may, notwithstanding any contract previously existing, discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid.

For preventing frauds and waste of gas.

56. If and whenever any person supplied with gas by the commissioners wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act, or wilfully fails to do anything which under this Act ought to be done for the prevention of the waste, misuse, or undue consumption of gas supplied by the commissioners, the commissioners may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of injury remains or is not remedied, and also may recover, in any court of competent jurisdiction, from every person so offending, the amount of all loss, damage, or injury which the commissioners may sustain by reason of any such thing or failure; and the remedies of the commissioners under this enactment shall be in addition to their other remedies in that behalf.

Quality of gas.

57. All the gas supplied by the commissioners shall be at least of such quality as to produce from a union jet burner capable of consuming five cubic feet of gas per hour under a pressure equal to a column of water five tenths of an inch in height a light equal in intensity to the light produced by twenty-five sperm candles of six in the pound burning one hundred and twenty grains per hour.

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Commissioners to maintain apparatus to test illuminating power of gas.

58. The commissioners shall, within six months after the passing of this Act, provide in some convenient part of their works an experimental meter furnished with a union jet or other approved burner capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas, and so situate and arranged as to test all the gas supplied by the commissioners, and shall at all times thereafter keep and maintain such experimental meter and apparatus in good repair and working order.

Provision for testing quality of gas.

59. Any five consumers of gas may, by order in writing, appoint some competent person, not being one of themselves, to proceed to the works of the commissioners; and the person so appointed may, at any reasonable hour in the daytime, on producing the said order, enter on the premises of the commissioners, and in the presence of the superintendent or other officer of the commissioners make experiment of the illuminating power of the gas by means of the experimental meter and other apparatus by this Act directed to be provided; and the commissioners and their officers shall afford all reasonable facilities and assistance for making such experiment; and if it shall be proved to the satisfaction of the sheriff, after hearing the parties, that the illuminating power of the gas supplied by the commissioners did not, when so tested as aforesaid, equal the illuminating power by this Act prescribed, or that the commissioners or their officers refused to afford such reasonable facilities as aforesaid, or hindered or prevented the making of such experiment, the commissioners shall in any such case be liable in such a penalty, not exceeding *twenty pounds*, as the sheriff shall determine.

Costs of experiment to be paid according to the event.

60. The costs of such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the sheriff, shall be ascertained by the sheriff, and, in the event of any penalty being imposed on the commissioners, shall be paid, together with such penalty, by the commissioners, but in the event of no penalty being so imposed, such costs shall be paid to the commissioners by the persons complaining.

Recovery of sums owing to commissioners.

61. Where any person fails to pay any gas rent or any rate or any sum whatever due under this Act to the commissioners, the commissioners may recover the same, with costs, including the costs of cutting off the gas, if the same shall have been cut off by the commissioners, by proceedings in any court of competent jurisdiction, and their remedies under this enactment shall be in addition to their other remedies for the recovery thereof.

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Recovery of penalties.

62. All penalties under this Act may be recovered before the sheriff, under the provisions of the Summary Procedure Act, 1864, at the instance of any person injured by fault of the commissioners when the penalty is exigible from the commissioners, otherwise at the instance of the clerk of the commissioners.

A.D. 1876.

SCHEDULES.

SCHEDULE (A.)

Form of Annuity Certificate.

No.

This is to certify that *A.B.* [*name and designation*] is entitled to receive from the Gas Commissioners of [*insert name of the burgh*] an annuity of pounds, payable on the first day of [*insert date for payment*] in each year, beginning the first payment thereof on the first day of [*insert date*] and so forth thereafter, and which annuity is preferably secured on the property and works vested in the said commissioners under "The Burghs Gas Supply (Scotland) Act, 1876," and to be acquired or constructed by them, and on the several rates and revenues to be levied and received by them under that Act.

Dated this day of one thousand eight hundred and

[*Signed by two commissioners and treasurer.*]

SCHEDULE (B.)

Form of Transfer of Annuity Certificate.

I *A.B.* [*name and designation*], in consideration of the sum of pounds [*or other consideration, as the case may be,*] paid to me by *C.D.* [*name and designation*], do hereby transfer to the said *C.D.*, and his executors, administrators, or assignees, the annuity of pounds secured by annuity certificate No. [*as the case may be*] of "The [*insert the name of burgh*] Gas Annuities," created under and by virtue of "The Burghs Gas Supply (Scotland) Act, 1876," now standing in my name in the books of the Gas Commissioners of [*insert name of burgh*], with the rights and privileges and subject to the conditions and provisions specified in the said Act. And I the said *C.D.* do hereby agree to hold the said annuity, subject to the same conditions and provisions. In witness whereof [*insert testing clause according to the form of the law of Scotland, if executed in Scotland, and if executed in England or elsewhere the form of attestation used in England*].

SCHEDULE (C.)

A.D. 1876.

Form of Mortgage.

Mortgage No.

By virtue of "The Burghs Gas Supply (Scotland) Act, 1876," we, the gas commissioners acting under the authority of the said Act for the burgh of [*insert the name of the burgh*], in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the treasurer to the said commissioners for the purposes of the said Act, do hereby grant, convey, and assign to the said [*name of mortgagee*], and his executors, administrators, and assignees [*as the case may be*], the property and works vested and hereafter to be vested in the said commissioners, and the rates and charges to be levied by them under the authority of the said Act, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter in virtue hereof remain as a loan to the said commissioners, for the purposes aforesaid, until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be endorsed hereon, and signed by the said mortgagee or his foresaids and by the treasurer to the said commissioners, and which minute or minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of said mortgagee or his aforesaids, or of the said treasurer, nor tested; and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum), the said commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof, and delivered herewith, and that at the several times mentioned in such warrants, upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to the said commissioners for the contents of such warrants, declaring that the said mortgagee and his foresaids shall not be entitled to make, and that the said commissioners shall not be bound to recognize or register, any partial assignation of these presents, or of the sums of money, principal or interest, herein contained; and that the said commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his

Supply.

A

BILL

[AS AMENDED BY THE SELECT COMMITTEE]

To make provision for lighting Burghs in Scotland with Gas.

(*Prepared and brought in by Sir Windham Anstruther, Mr. Orr Ewing, Mr. Grieve, and Mr. William Holms.*)

Ordered by The House of Commons, *to be Printed*, 6 *April* 1876.

[Bill 120.]

Under 5 *oz.*

Burghs (Scotland) Gas Supply Bill.

Changed from

BURGHS AND POPULOUS PLACES (SCOTLAND) GAS SUPPLY BILL.

[AS AMENDED ON RE-COMMITMENT BY THE SELECT COMMITTEE.]

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6. Incorporation of Acts.

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A

B I L L

[AS AMENDED ON RE-COMMITMENT BY THE SELECT COMMITTEE]

TO

Make provision for lighting Burghs in Scotland with Gas. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Burghs Gas Supply (Scotland) Act, 1876."

Application of Act limited.

2. The provisions of this Act shall not empower the town council or commissioners of police of any burgh, in which this Act shall be adopted, or commissioners under this Act, to supply gas within any part of the area of supply over which the town council or commissioners of police of any other burgh, or any gas company incorporated by Act of Parliament, shall have statutory powers to supply gas at the date of the adoption of this Act in such burgh.

Interpretation of terms.

3. The following expressions in this Act have the meanings hereby assigned to them; that is to say,

"Burgh" shall mean Royal burgh and Parliamentary burgh, and includes every burgh and place having town councillors or commissioners of police elected under any General or Local Act of Parliament:

"Commissioners" means the authority for executing this Act in any burgh in which the same shall be adopted:

"Elector" means any person entitled to vote in the election of town councillors or police commissioners in any burgh or any ward thereof:

"Lands and heritages" has the same meaning in this Act as in the Act of the seventeenth and eighteenth year of the reign of Her present Majesty, chapter ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland":

"Company" means any person, persons, company, or companies carrying on the business of a gas company;

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"Shareholder" means shareholder or holder of stock of any gas company whose works may be acquired by the commissioners of any burgh under the provisions of this Act:

"Annuity" means any annuity payable under this Act:

"Annuitant" means any person entitled to and holding an annuity payable under the provisions of this Act:

"Sheriff" includes sheriff substitute:

"Clerk," "treasurer," and "collector" mean the clerk, treasurer, and collector respectively who may be appointed by the commissioners of any burgh which shall adopt the provisions of this Act.

I.—*Adoption of the Act.*

Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.

4. It shall be lawful for the town council in any burgh in which there is a town council, and for the commissioners of police in any other burgh, by a majority of the members who are present at a meeting of such town council or commissioners specially called for the purpose, to resolve that this Act shall be adopted in and applied to the burgh, and to appoint a day not earlier than the third and not later than the thirtieth lawful day after the completion of the then next ensuing annual election of councillors or commissioners of police, as the case may be, for the burgh, for holding a second special meeting to resume consideration of such resolution; and a copy of any minute containing such resolution and appointment shall be inserted once in each newspaper published in the burgh one month at least before such next annual election; and if there be no newspaper published in the burgh, a copy of such minute shall be delivered or transmitted through the post office to each elector and to the sheriff clerk and clerk of the peace of the county within which the burgh is situated, and shall be inserted once in a newspaper published in such county, or in an adjoining county, one month at least before such next annual election.

If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.

5. It shall be lawful for the town council or commissioners of police, as in the preceding section mentioned, at such second special meeting or at any adjourned special meeting, (of which adjourned meeting four days notice in writing shall be given to each member of the council or commissioner of police, as the case may be,) on resuming consideration of such resolution, either to approve or disapprove the same; and if such resolution shall be approved by a majority of two thirds at least of the members of the council or commissioners of police, as the case may be, who are present at such second special meeting or at such adjourned meeting, the town

council or commissioners shall not proceed to carry the same into effect until after the expiration of one month of the date of such second meeting, and during such month such resolution shall be advertised once, at least, in each week in some newspaper circulating within the burgh, if any be, or otherwise in some newspaper circulating in the county in which the burgh is situated, and public notice thereof shall also be given by means of placards posted in public places within the burgh; and if before the expiration of such month a remonstrance in writing by one-twentieth or more of the ratepayers against carrying into effect such resolution or any part thereof be lodged with the Commissioners, such resolution shall not be carried into effect unless confirmed by a majority of the ratepayers qualified and voting at a poll to be taken, and upon such remonstrance being lodged as aforesaid, the Commissioners, or the chief or senior magistrate of such burgh, shall be bound to direct a poll to be taken in the manner prescribed in regard to polls of householders taken with reference to the adoption of "The General Police and Improvement (Scotland) Act, 1862;" and the whole enactments and procedure provided in regard to such polls shall, so far as applicable, extend and apply to the poll hereby authorized and directed to be taken; but provided also, that if the said resolution shall not be so confirmed, it shall be lawful to the Commissioners, as often as they shall think proper thereafter, but not sooner than three years from the date of any preceding resolution, by such and the like procedure again to adopt the same; and a copy of the minute of the meeting if such resolution is confirmed by the ratepayers, shall, at the expiration of fourteen days be registered in the sheriff court books of the county in which the burgh is situated; and the provisions of this Act shall be in force from and after such registration, the date of which shall be held as the date of the adoption of this Act.

II.—*Incorporation of Acts.*

6. "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts (1845) Amendment Act, 1860," shall, except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, be incorporated with and form part of this Act. 8 & 9 Vict. c. 19. and 23 & 24 Vict. c. 106. incorporated.

The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall, except sections eighty-four and eighty-five, and except where expressly varied by this Act, be incorporated with this Act, and Part of 10 & 11 Vict. c. 16. incorporated.

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applied to the money borrowed and mortgages granted under the powers of this Act.

10 & 11 Vict. c. 15. incorporated.

"The Gasworks Clauses Act, 1847," except the clauses thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall, except where the same are at variance with the provisions of this Act, be incorporated with and form part of this Act.

The several words and expressions to which by the Acts partially incorporated with this Act meanings are assigned, shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, that in the Acts partially incorporated with this Act and also in this Act the expressions "the undertakers" and "the commissioners" shall mean the commissioners acting in the execution of this Act; "the undertaking" shall mean the gasworks, business, property heritable and movable, plant, pipes, meters, and other assets of any company, to be purchased by and vested in the commissioners under the provisions of this Act; and the word "street" shall mean and include street, highway, quay, wharf, bridge, railway crossing, bridleway, footway, carriageway, side pavement, turnpike, statute labour, or other road, thoroughfare, lane, passage, square, court, or place within any burgh brought under the provisions of this Act.

III.—*The Commissioners; their Proceedings.*

Authority for executing Act.

7. The commissioners for executing this Act in any burgh in which the same shall be adopted shall be,—

(1.) In any burgh having a town council, the town council;

(2.) In any other burgh, the commissioners of police.

Power to commissioners to appoint committee.

8. The commissioners may from time to time appoint a committee of their number (to be called "the gas committee") for the execution of any of the purposes of this Act, and may appoint a convener of such committee, and may from time to time remove any member of such committee, and appoint another commissioner in his room, and may delegate to any such committee such of the powers and authorities of the commissioners as the commissioners think fit, and where such powers and authorities are not specially limited and defined by the commissioners, every such committee shall have and may exercise all powers and authorities necessary to enable them to transact the business committed to them; and the acts and proceedings of any such committee within the limits of such delegation shall be deemed the acts and proceedings of the commissioners; and

the quorum of any such committee shall, unless where otherwise declared, be three, and the convener thereof shall be chairman; and the commissioners may from time to time make such regulations as they think fit for the guidance of any such committee.

Two or more burghs may amalgamate.

9. It shall be lawful for the town councils or commissioners of police of two or more burghs who have adopted this Act to amalgamate for the purposes of this Act (and on such amalgamation the committees, when appointed by them, shall be called "The Joint Gas Committee"), and the Joint Gas Committee shall have, exercise, and enjoy all the powers and authorities within the area of the combined burghs which are by this Act conferred on the commissioners of any single burgh.

Meetings of committee.

10. Every committee appointed by the commissioners may meet from time to time and may adjourn from place to place as they think proper for carrying into effect the purposes of their appointment; and at all meetings of the committee one of the members present shall, in the absence of the convener, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Vacancies not to invalidate acts of commissioners.

11. No proceeding of the commissioners or of any committee shall be invalidated or be illegal in consequence of there being any vacancy or vacancies in the number of commissioners at the time of such proceeding.

Minutes of proceedings.

12. The commissioners shall cause entries of the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk, under the superintendence of the commissioners; and every such entry shall be signed by the chairman of the meeting at which the proceedings took place; and such entry so signed, or a copy thereof certified by the clerk, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commis-

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sioners, or of any mortgagee of the property of the commissioners, or of any annuitant.

Contract for supply of gas not to disqualify commissioners.

13. No person shall be disqualified from being, continuing, or acting as a commissioner by reason of his being concerned in any contract entered into with the commissioners for the supply of gas, or of his being a mortgagee of the commissioners or an annuitant.

Payment of rates not to disqualify any judge.

14. No person liable under this Act in payment of rates or other consideration in respect of a supply of gas shall on that account, or on account of being a commissioner, be disqualified from acting as a justice of peace or sheriff, or exercising any judicial or other function in the carrying out of this Act.

Books and accounts to be kept.

15. The treasurer shall keep separate and distinct books and accounts altogether apart from and unconnected with the other accounts and books of the commissioners, and such books and accounts shall contain a full and accurate record of all moneys received and paid by the treasurer or the servants of the commissioners under the powers and provisions of this Act.

Auditor to be appointed.

16. On or before the first day of May in every year after this Act shall be adopted by a burgh, the commissioners shall apply to the sheriff, and the sheriff shall appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the commissioners, or holding office under them,) to audit the accounts of the commissioners; and such auditor shall continue in office until superseded by the appointment of another, and shall be allowed such reasonable remuneration as shall be fixed by the sheriff; and in case in any year the office of such auditor shall, before such accounts have been audited by him, become vacant by death, or from any other cause, the sheriff shall from time to time appoint an auditor to supply such vacancy; and the whole books, accounts, vouchers, and documents of the commissioners in relation to their undertaking shall be laid before the auditor for the purpose of such audit.

Accounts to be balanced.

17. The accounts to be kept by the treasurer shall be brought to a balance on the fifteenth day of May in each year for the year immediately preceding, and shall be audited within thirty days thereafter, and shall be submitted along with the auditor's report to a general meeting of the commissioners, which shall be held upon the second Monday of July annually, at which meeting the accounts shall be examined, and an abstract statement and account, authenticated by the docquet and subscription of the chairman of the meeting and the clerk, shall be printed, and a copy

thereof shall be inserted once in each newspaper published in the burgh within ten days of the date of such general meeting, or if there be no newspaper published in the burgh, a copy of such abstract statement and account shall be inserted once in a newspaper published in the county in which the burgh is situated, or in an adjoining county. The commissioners shall also keep printed copies of such abstract statement and account at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy. A.D. 1876.

IV.—*General Powers and Obligations of Commissioners.*

Commissioners may erect gasworks and supply public and private lights in certain cases.

18. The commissioners may (subject to the provisions of this Act) erect, lay down, improve, extend, and maintain gasworks, gasometers, and pipes for the distribution of gas, and execute all such works as may be necessary for the efficient manufacture and supply of gas for public and private purposes, and may purchase, acquire, and hold lands and other property for these purposes, and may carry on any such operations and business as are for the time being usually carried on by gas companies.

Commissioners may purchase gasworks.

19. Where there is a company not incorporated by Act of Parliament supplying gas within a burgh, the commissioners may, subject to the provisions of this Act, buy from such company, and the directors of such company, by and with the authority of three fifths in value of the shareholders for the time being who may be present either personally or by proxy at some general meeting of the company specially convened for the purpose, may sell and transfer to the commissioners, on such terms as may be agreed on between the commissioners and the company, the undertaking of such company, and all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attached to the same at the time of purchase.

Provisions for purchase.

20. Where there is a company not incorporated by Act of Parliament supplying gas within a burgh, the commissioners, before they shall exercise any of the powers conferred by this Act, shall give notice to such company that they are willing to buy or to treat for the purchase of the undertaking of such company of all the rights, powers, and privileges, and all the lands, premises, works, and other property of the company, and if such company shall consent to sell the same the commissioners shall purchase the undertaking on terms mutually agreed upon or to be

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fixed by arbitration in the manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, respecting matters thereby directed to be settled by arbitration, and if such company shall refuse to sell the same, or shall not within two calendar months after the service of such notice return any answer, the commissioners may present a petition to the sheriff stating the facts, and the sheriff shall, on being satisfied by evidence of the facts as stated, decree accordingly, and on such decree being pronounced the commissioners shall have and may exercise all the powers conferred by this Act.

After decree of sheriff commissioners may apply for provisional order.

21. Within one calendar month after the sheriff shall have pronounced decree as aforesaid, the commissioners may, if they think fit, before proceeding to execute the powers contained in the eighteenth section of this Act, apply to the Board of Trade for a provisional order to authorise the purchase of the undertaking of the company to which such decree refers, and such application shall be deemed to be an application under the "Gas and Water Facilities Act, 1870," as if the commissioners had been named in that Act as persons who might apply for a provisional order.

Clause A. Consideration for gasworks of any company if purchased.

22. The consideration to be paid by the commissioners for the purchase of the undertaking of any gas company under the powers of this Act may be either a capital sum of money or annuities, or partly a capital sum of money and partly annuities, as may be agreed upon between the commissioners and the company but the commissioners shall not pay any such consideration either in the shape of a capital sum or in annuities until the company selling their undertaking shall have delivered to the commissioners a valid conveyance thereof duly stamped and executed.

Annuities to vest in shareholders of company.

23. In the event of the agreement between the commissioners and the company being for payment by way of annuity, the following provisions shall have effect; firstly, the amount of the annuity, as the same shall be fixed by agreement or settled by arbitration in the manner herein-before provided, shall be payable in every year on such day or days yearly or half-yearly as may be agreed upon between the commissioners and the company, or settled as herein-before provided; secondly, the said amount shall be paid in the form of annuities, which shall be called by the name of the burgh issuing the same, and which shall vest in and belong and be paid to the several persons, their executors, administrators, or assignees, who at the date of the agreement to purchase the undertaking of the company were shareholders in the company, according

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to their respective rights and interests in the share capital of the company, subject to the following provisions; viz.,

Annuity certificates to be granted.

(A.) The commissioners shall, at their own expense, grant and issue to every shareholder of the company, or to his executors, administrators, or assignees, on delivery to the commissioners of the certificate, or on production of other evidence of the share or stock or interest held by him in the capital of the company, annuity certificates in the form of the Schedule (A.) to this Act for the amount of the annuities to which such shareholder is entitled under the provisions of this Act:

Amounts for which certificates shall be issued.

(B.) The annuity certificates issued by the commissioners to any person entitled thereto shall be so many, and each of them for such sum, but not exceeding in the aggregate the whole amount of his annuities, as he by notice in writing to the commissioners shall require: Provided that if or so far as any person does not require any particular number of certificates to be issued to him, the commissioners shall issue to such person one or more certificates, as they shall think fit:

Certificates to be numbered and renewed.

(C.) The annuity certificates shall be numbered in arithmetical progression, beginning with No. 1, and every annuity certificate shall be distinguished by its appropriate number; and the annuity certificates shall be renewed by the commissioners when lost, worn out, or damaged, on production to them, or their clerk or treasurer, of evidence of the right of the annuitant requiring such renewal; and if in any case the commissioners shall not be satisfied with the evidence offered by any annuitant, he may appeal to the sheriff, who shall decide summarily what evidence is requisite, and whose decision shall be final; and for every such renewed certificate the commissioners may demand any sum not exceeding two shillings and sixpence:

Register of annuities.

(D.) The commissioners shall keep a book, called "The Register of [*name of burgh*] Gas Annuities," and enter therein from time to time, in alphabetical order, the names and designations of the several annuitants respectively entitled to the annuities, and the respective amounts of their annuities:

Annuities personal estate.

(E.) The annuities shall be moveable or personal estate, and transmissible as such:

Annuities may be transferred.

(F.) Every annuitant may sell and transfer all or any of his annuities; and every such transfer shall be by deed duly

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stamped, in which the consideration shall be truly stated, and such deed may be in the form of the Schedule (B.) to this Act, or to the like effect:

Transfer of annuities to be registered.

(G.) Every such transfer, when duly executed, shall be delivered to the commissioners, and kept by them, and they shall keep a book called "The Register of Transfers of the [*name of burgh*] Gas Annuities," and shall enter every such transfer therein, and shall endorse such entry on the transfer, such endorsement to be signed by the treasurer or clerk, and shall, on demand, deliver a new certificate to the transferee; and for every such entry of a transfer with such endorsement and certificate the commissioners may demand any sum not exceeding two shillings and sixpence; and on the request of any transferee an endorsement of the transfer to him shall be made on the certificate transferred, instead of a new certificate being granted; and such endorsement, being signed by the treasurer or clerk, shall be considered in every respect the same as a new certificate; and until such transfer be so delivered to the commissioners the transferee shall not be entitled to receive any part of the annuities transferred:

Closing of transfer books.

(H.) The commissioners may close the register of transfers of annuities for any period not exceeding fourteen days in each year; and any transfer made during the time when such register is closed shall, as between the commissioners and the transferee, but not otherwise, be held as made after that time:

Transmission of annuities by other means than transfer to be authenticated by a declaration.

(I.) If the right to any annuity becomes transmitted in consequence of the death or bankruptcy or insolvency of any annuitant, or in consequence of the marriage of a female annuitant, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as herein-after provided; and until the transmission be so authenticated, no person claiming by virtue thereof shall be entitled to receive any part of the annuity transmitted:

Contents of declaration in all cases.

(J.) Every such declaration shall state the manner in which and the party to whom the annuity is transmitted, and shall be made and signed by some credible person before a justice of the peace or a sheriff; and such declaration shall be left with the commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of annuities, and for every such

entry the commissioners may demand any sum not exceeding one shilling:

Contents of declaration in cases of transmission by marriage or will.

(K.) If the transmission be by virtue of the marriage of a female annuitant, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration or effecting thereof, and shall declare the identity of the wife with the holder of the annuity; and if the transmission be by virtue of any will or testamentary instrument, or by intestacy, the confirmation or testament testamentar, or testament dative, or the probate or letters of administration, or an official copy or extract thereof, shall, with the declaration, be produced to the treasurer or clerk, and upon such production in either of those cases the treasurer or clerk shall make an entry of the declaration in the register of transfers of annuities:

Commissioners not bound to regard trusts.

(L.) The commissioners shall not be bound to see to the execution of any trust, whether expressed, implied, or constructive, to which any annuity may be subject; and the receipt of the person in whose name any annuity stands in the register of annuities shall from time to time be a sufficient discharge to the commissioners for any money payable in respect of such annuity, notwithstanding any trust to which the same may then be subject, and whether or not the commissioners have had notice of such trusts, and the commissioners shall not be bound to see to the application of the money paid upon such receipt:

Commencement and payment of annuities.

(M.) The annuities shall be computed from such day in each year as may be agreed upon between the commissioners and the company, and shall be paid at the office of the commissioners or their treasurer in the burgh from which they were issued in net money, clear of all deductions whatsoever (except income or property tax, or other tax in the nature thereof legally chargeable thereon):

Power to redeem annuities by agreement.

(N.) The commissioners may from time to time, by agreement with any annuitant, purchase or redeem all or any of his annuities; and when any annuity is so redeemed, the commissioners shall take a transfer of said annuity which shall set forth the price paid, and an entry of the redemption thereof shall be made in the register of the Burgh's Gas Annuities, and thereupon the redeemed annuity shall be wholly extinguished:

Annuities recoverable by action.

(O.) If any annuity or part of an annuity being payable be not paid on demand thereof in writing made by any annuitant

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or his agent to the commissioners, the annuitant may sue for and recover the same from the commissioners in the Sheriff Court, with interest at the rate of five pounds per centum per annum till paid, and expenses:

Annuitants to be preferential creditors for annuities.

(P.) The annuitants shall be creditors of the commissioners for payment of the annuities respectively herein-before directed to be paid to them, and of the interest thereon and expenses incident thereto; and the said annuities, and the interest on moneys authorised to be borrowed under the authority of this Act, are hereby constituted primary and preferential burdens and liens on the undertaking, and on any other works and property from time to time to be acquired or constructed by the commissioners, and on the rates and charges leviable by and on the other revenues of the commissioners under this Act.

Actions not to abate.

24. No action, suit, prosecution, or other proceeding whatsoever commenced either by or against the company in relation to the undertaking of the company to be vested in the commissioners as aforesaid previous to such vesting taking place, shall abate or be discontinued or be prejudicially affected thereby, but all such actions, suits, prosecutions, and other proceedings shall continue and take effect, either in favour of or against the commissioners, in such and the like manner as the same would have continued and taken effect in relation to the company if such vesting in the commissioners had not taken place.

Company to cease to supply gas.

25. From and after the date when the commissioners shall become vested with the undertaking of any company under the provisions of this Act, the company shall cease to manufacture, sell, and supply gas.

Ultimate dissolution of company.

26. From and after the date of the certificate to be granted by the sheriff in manner herein-before provided, the company shall subsist only for the purpose of securing the annuity certificates being granted to the shareholders for their respective annuities as herein-before provided, and of obtaining from the commissioners discharges of the mortgage and other debts and obligations due by the company which, under the provisions of this Act, are to be paid by the commissioners, or of enforcing against the commissioners the company's right to relief from such mortgage and other debts and obligations, for winding up the affairs of the company, and carrying into effect the purposes of this Act, so far as relating to the company; and the directors of the company in office at the date of the said certificate being granted, and the survivors of them, shall continue without re-election to hold office, and shall have

full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned, and on the fulfilment of the said purposes the company shall be dissolved. A.D. 1876.

V.—*Borrowing Powers of Commissioners.*

27. It shall be lawful for the commissioners to borrow on mortgage any money which may be necessary for the purchase or erection of gasworks for the burgh, and to grant mortgages of any undertaking acquired, and of any works and property to be acquired or constructed by them, and also of any rates or charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed and interest thereon; and if, after having borrowed any sum of money, the commissioners pay off the same otherwise than by a sinking fund, it shall be lawful for them again to borrow the amount so paid off, and so from time to time. Power to borrow on mortgage.

28. Every mortgage to be granted by the commissioners shall be by deed duly stamped, in which the consideration shall be truly stated, and may be in the form of the Schedule (C.) to this Act annexed. Form of mortgage.

29. It shall be lawful for the commissioners to issue along with any such mortgage, and during the period of any postponement of the term of payment thereof, interest warrants in the form of the Schedule (D.) to this Act annexed, or to the like effect, signed by the treasurer, for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist; and the delivery to the commissioners or their treasurer, or to any person on their behalf, of any such interest warrant, duly stamped as a receipt, shall be a valid and sufficient discharge to the commissioners for the interest in respect of which the same was issued. Mortgages may be accompanied with interest warrants.

30. It shall be lawful for the commissioners to take from any banking company credit on a cash account, to be opened and kept with such banking company in the name of the commissioners, according to the usage of bankers in Scotland, to the extent required as aforesaid, and to make and grant mortgages of the property and works forming their undertaking, and of any rates or charges leviable by them under the authority of this Act, in security of the payment of the amount of such credit, or of the sums advanced from time to time on such cash account, with interest thereon. Commissioners may borrow on credit of a cash account.

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Manner in which mortgages and orders on bank account to be signed and executed.

31. Every mortgage to be granted by the commissioners may be written or partly written and partly printed, and shall be signed by at least two of the commissioners and the treasurer; and all drafts or orders on the cash account before mentioned shall be signed by any two of the commissioners authorised so to do, and shall be countersigned by the treasurer: Provided always, that no commissioner or treasurer shall, by his subscription of any such mortgage, draft, or order, be, or be held to have rendered himself, individually or personally liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Arrears may be enforced by appointment of a judicial factor.

32. It shall be lawful for any of the following persons to apply by summary petition to the Court of Session in either division thereof, or in the time of vacation to the Lord Ordinary on the bills, for the appointment of a judicial factor to manage the undertaking of the commissioners, with the powers after mentioned, and for such court or Lord Ordinary to appoint a judicial factor accordingly; that is to say,

1. Any annuitant or mortgagee having an annuity or interest on a mortgage in arrear to the amount of not less than one hundred pounds; or
2. Any mortgagee with principal or principal and interest in arrear to the amount of not less than five hundred pounds; or
3. Any annuitants or mortgagees having annuities, or interest on mortgages in arrear to the amount of not less than two hundred pounds in the aggregate; or
4. Any mortgagees with principal or principal and interest in arrear to the amount of not less than one thousand pounds in the aggregate.

Provided—

(*a.*) The arrear shall have existed for two months; and

(*b.*) The arrear shall have existed for twenty-one days after a demand for payment made in writing; and

(*c.*) The arrear with interest and expenses shall not have been paid before the application is advised.

An interlocutor pronounced under this section appointing a judicial factor shall not be subject to review or appeal.

Power and duties of judicial factor.

33. A judicial factor appointed under the preceding section shall, on finding security in common form, have and exercise all the powers and rights and be subject to all the obligations of the commissioners whose undertaking he is appointed to manage, and the judicial factory shall continue till all arrears, whether of prin-

cipal, annuities, or interest, due at the date of his appointment, and all such arrears subsequently arising, and all the expenses of the factory, including the expenses of the appointment, shall be paid, whereupon it shall be lawful for the commissioners to apply for the recal of the appointment of the judicial factor to the Court of Session in either division thereof, or, in time of vacation, to the Lord Ordinary on the bills, who may recall such appointment accordingly.

Mortgages to be personal estate.

34. All mortgages to be granted by the commissioners under the authority of this Act, and all money to be advanced and lent on the security of any rates or charges leviable by them, shall be moveable or personal estate, and transmissible as such.

Discharge of mortgages.

35. Any person entitled to any mortgage granted by the commissioners under the authority of this Act may discharge the same, and his right and interest therein, in favour of the commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the Schedule (G.) to this Act, or to the like effect; and such discharge, when signed by the person entitled to such mortgage and duly stamped, shall be valid and effectual to all intents and purposes.

Providing for regular payment of annuities.

36. The commissioners may from time to time apply any moneys borrowed under the authority of this Act with a view to the regular payment of annuities as they fall due; provided that they shall as soon as may be replace any moneys so applied out of any rates or charges which they are empowered to impose and levy under this Act.

Application of money borrowed.

37. The several sums borrowed by the commissioners under the authority of this Act shall be applied in the payment of the mortgage and other debts of the company, and in carrying the other purposes of this Act into execution; but the commissioners shall not apply any of the money so borrowed to the maintenance of the works acquired or to be constructed by them, or to the expenses of management, or to any other expenses properly payable out of revenue.

Guarantee rate.

38. It shall be lawful for the commissioners and they are hereby required from time to time to fix, impose, and levy such a rate, to be termed "The Gas Contingent Guarantee Rate," as may be required to pay any annuities and any interest due thereon, and the interest of money borrowed or to be borrowed under the provisions and for the purposes of this Act.

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Assessment and levy of rate.

39. The gas contingent guarantee rate shall be imposed, levied, and collected, on the requisition of the commissioners, by the authority in the burgh empowered by law to levy any assessment for police purposes therein, along with and in the same manner in all respects and from the same descriptions of persons and property as such assessment for police purposes; and the amount of such rate, when imposed, levied, and collected by such authority, shall be paid over to the commissioners for the purposes of this Act. All the powers, enactments, and provisions of law in force for the time with respect to the levying, payment, and recovery of assessments for police purposes within the burgh shall apply to the levying, payment, and recovery of the gas contingent guarantee rate by this Act authorised to be raised.

Sinking fund.

40. The commissioners shall, in every year after the second year from their commencing to supply gas, set apart as a sinking fund a sum of not less than one fortieth part of the sums from time to time borrowed, until such sums be respectively repaid, and such sinking fund shall from time to time be applicable to the redemption of mortgages and annuities, and to no other purpose, and shall be lodged in any bank in Scotland incorporated by Act of Parliament or Royal Charter, or invested in Government or on heritable securities, in the name of "(*name of burgh*) Gas Commissioners," at the discretion of the commissioners, until the same be applied for the purposes before specified.

VI.—*General Provisions.*

Commissioners to fix rates for gas.

41. The commissioners shall from time to time fix the price to be paid for gas to be supplied during any succeeding year or half year, and until such price be altered by the Commissioners, the price so fixed shall remain in force, provided that the price shall be such as will, as nearly as can be estimated, raise sufficient income to discharge all the costs and expenses of and incident to the manufacture and distribution of the gas made, together with the interest on all money borrowed in respect of the works, and to provide for a sinking fund for the repayment of such money, and for a depreciation and renewal fund sufficient to maintain the works in perpetuity and for all charges incident to the occupation of such works, and the moneys received in respect of and incident to the manufacture and distribution of gas shall be applied to such purposes only, and any balance at the termination of any year shall be carried to the debit or credit of the succeeding year: Provided also, that the prices charged shall be the same to all consumers under like circumstances, and the revenue of the gas works shall be credited

with an amount for the gas consumed for public purposes, calculated at the rates charged to private consumers, which amount shall be a charge upon the rates leviable for public lighting.

Commissioners may contract to light adjoining burghs.

42. The commissioners may contract with any local authority adjacent to the burgh to supply gas within their respective limits, provided that there is no town council nor commissioners of police nor any gas company entitled (at the date of the passing of this Act) to supply gas within such limits.

Supply of adjacent districts.

43. The commissioners may supply gas to any district adjacent to the burgh not being at the time of the adoption of this Act within the area of supply of any incorporated company, town council, or other commissioners.

Dispensing with notice as to interference with streets.

44. It shall not be necessary for the commissioners, before they proceed to break up for the purposes of this Act any street under the control of the commissioners, to give any notice of their intention so to do.

Obligation on commissioners as to supply.

45. The commissioners shall, on the request in writing of the owner or occupier of any building or part of a building within one hundred yards of which any main of the commissioners is laid, furnish to such owner or occupier a supply of gas for such building or part of a building on the following conditions, viz.:

First. That the person making such request do, if required by the commissioners, give to them, at his own expense, reasonable security for payment for the gas to be supplied;

Secondly. That such person do pay the cost of and the expenses of laying all necessary pipes for such supply beyond the line of street or road where the main of the commissioners is placed;

Thirdly. That such person do, if required by the commissioners, pay in advance the estimated amount of such cost and expenses;

and any dispute as to any matter arising under the present section shall be settled, upon the application of either party, by the sheriff, whose decision thereof shall be final.

Gas pipes may be put in buildings.

46. Subject to the provisions contained in this Act, and the Acts partially incorporated herewith, the commissioners may lay any pipe, branch, or other necessary apparatus, with the consent of the owner and occupier of any building, for the purpose of lighting the same or any adjoining building, and may, with the like consent, provide and set up any apparatus necessary for securing to any building a proper and sufficient supply of gas, and for measuring and ascertaining the extent of such supply.

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Gas to be consumed by meter.

47. Every consumer of gas supplied by the commissioners shall consume the gas by meter; and every meter measuring the consumption of gas, whether such meter is provided by the consumer or the commissioners, shall be subject to the inspection and approval of the officers and servants of the commissioners.

Notice to commissioners putting up or removing meters.

48. Before any person shall connect or disconnect any meter through which gas supplied by the commissioners is intended to be or has been registered, he shall give not less than twenty-four hours notice in writing to the commissioners of his intention to do so, and any person offending against this enactment shall forfeit and pay to the commissioners a sum not exceeding forty shillings.

Repair of meters.

49. Every consumer of gas supplied by the commissioners shall at all times, at his own expense, keep all meters whereby the consumption of such gas is registered in proper order for correctly registering such consumption, in default whereof the commissioners may cease to supply gas through such meters; and the commissioners shall at all reasonable times have access to and be at liberty to take off, remove, test, inspect, and replace any meter at their own expense if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to commissioners to let meters.

50. The commissioners may let for hire any meter and any fittings thereto, on such terms with respect to the repair of such meter and fittings, and for securing the safety and return of the same to the commissioners, as may be agreed upon between the hirer and the commissioners, and such hire shall be recoverable in the same manner as moneys due to the commissioners for gas; and such meters and fittings shall not be subject to any diligence at the instance of the landlord for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law, or any proceedings in bankruptcy against the persons in whose possession the same may be.

Register of gas meter to be primâ facie evidence.

51. The register of the meter shall be primâ facie evidence of the quantity of gas consumed.

Power to remove meters and fittings.

52. It shall be lawful for the commissioners, after twenty-four hours notice in writing under the hand of the manager of their works or some other one of their officers to the occupier, or if unoccupied, then to the owner or lessee or the person in charge or reputed to be in charge of any land, house, or building in which any pipes, mains, meters, or fittings belonging to the commissioners are laid or fixed, and through or in which the supply of gas shall, from any cause other than the neglect or default of the commis-

sioners, be discontinued, to enter such land, house, or building between the hours of nine in the morning and six in the afternoon, for the purpose of removing, and to remove, such pipes, meters, or fittings, repairing all damages caused by such entry or removal; and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or, if such person or his address be not known, then by being affixed on some conspicuous part of such land, house, or building.

Fraudulently injuring meters, &c.

53. Every person who shall willingly, wilfully, fraudulently, or by culpable negligence injure or suffer to be injured any meter or fittings belonging to the commissioners, or shall fraudulently alter or prevent the index to any meter from duly registering the quantity of gas supplied, shall, without prejudice to any other right or remedy for the protection of the commissioners or the punishment of the offender, for every such offence forfeit and pay to the commissioners a sum not exceeding five pounds, and the commissioners may in addition thereto recover the amount of any damages by them sustained, and the commissioners may, notwithstanding any contract previously existing, discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid.

For preventing frauds and waste of gas.

54. If and whenever any person supplied with gas by the commissioners wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act, or wilfully fails to do anything which under this Act ought to be done for the prevention of the waste, misuse, or undue consumption of gas supplied by the commissioners, the commissioners may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of injury remains or is not remedied, and also may recover, in any court of competent jurisdiction, from every person so offending, the amount of all loss, damage, or injury which the commissioners may sustain by reason of any such thing or failure; and the remedies of the commissioners under this enactment shall be in addition to their other remedies in that behalf.

Quality of gas.

55. All the gas supplied by the commissioners shall be at least of such quality as to produce from a union jet or other approved burner capable of consuming five cubic feet of gas per hour under a pressure equal to a column of water five tenths of an inch in height a light equal in intensity to the light produced by twenty-five sperm candles of six in the pound burning one hundred and twenty grains per hour.

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Commissioners to maintain apparatus to test illuminating power of gas.

56. The commissioners shall, within six months after the passing of this Act, provide in some convenient part of their works an experimental meter furnished with a union jet or other approved burner capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas, and so situate and arranged as to test all the gas supplied by the commissioners, and shall at all times thereafter keep and maintain such experimental meter and apparatus in good repair and working order.

Provision for testing quality of gas.

57. Any five consumers of gas may, by order in writing, appoint some competent person, not being one of themselves, to proceed to the works of the commissioners; and the person so appointed may, at any reasonable hour in the daytime, on producing the said order, enter on the premises of the commissioners, and in the presence of the superintendent or other officer of the commissioners make experiment of the illuminating power of the gas by means of the experimental meter and other apparatus by this Act directed to be provided; and the commissioners and their officers shall afford all reasonable facilities and assistance for making such experiment; and if it shall be proved to the satisfaction of the sheriff, after hearing the parties, that the illuminating power of the gas supplied by the commissioners did not, when so tested as aforesaid, equal the illuminating power by this Act prescribed, or that the commissioners or their officers refused to afford such reasonable facilities as aforesaid, or hindered or prevented the making of such experiment, the commissioners shall in any such case be liable in such a penalty, not exceeding twenty pounds, as the sheriff shall determine.

Costs of experiment to be paid according to the event.

58. The costs of such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the sheriff, shall be ascertained by the sheriff, and, in the event of any penalty being imposed on the commissioners, shall be paid, together with such penalty, by the commissioners, but in the event of no penalty being so imposed, such costs shall be paid to the commissioners by the persons complaining.

Recovery of sums owing to commissioners.

59. Where any person fails to pay any gas rent or any rate or any sum whatever due under this Act to the commissioners, the commissioners may recover the same, with costs, including the costs of cutting off the gas, if the same shall have been cut off by the commissioners, by proceedings in any court of competent jurisdiction, and their remedies under this enactment shall be in addition to their other remedies for the recovery thereof.

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Recovery of penalties.

60. All penalties under this Act may be recovered before the sheriff, under the provisions of the Summary Procedure Act, 1864, at the instance of any person injured by fault of the commissioners when the penalty is exigible from the commissioners, otherwise at the instance of the clerk of the commissioners.

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SCHEDULES.

SCHEDULE (A.)

Form of Annuity Certificate.

No.

This is to certify that *A.B.* [*name and designation*] is entitled to receive from the Gas Commissioners of [*insert name of the burgh*] an annuity of pounds, payable on the first day of [*insert date for payment*] in each year, beginning the first payment thereof on the first day of [*insert date*] and so forth thereafter, and which annuity is preferably secured on the property and works vested in the said commissioners under "The Burghs Gas Supply (Scotland) Act, 1876," and to be acquired or constructed by them, and on the several rates and revenues to be levied and received by them under that Act.

Dated this day of one thousand eight hundred and .

[*Signed by two commissioners and treasurer.*]

SCHEDULE (B.)

Form of Transfer of Annuity Certificate.

I *A.B.* [*name and designation*], in consideration of the sum of pounds [*or other consideration, as the case may be,*] paid to me by *C.D.* [*name and designation*], do hereby transfer to the said *C.D.*, and his executors, administrators, or assignees, the annuity of pounds secured by annuity certificate No. [*as the case may be*] of "The [*insert the name of burgh*] Gas Annuities," created under and by virtue of "The Burghs Gas Supply (Scotland) Act, 1876," now standing in my name in the books of the Gas Commissioners of [*insert name of burgh*], with the rights and privileges and subject to the conditions and provisions specified in the said Act. And I the said *C.D.* do hereby agree to hold the said annuity, subject to the same conditions and provisions. In witness whereof [*insert testing clause according to the form of the law of Scotland*].

SCHEDULE (C.)

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Form of Mortgage.

Mortgage No.

By virtue of "The Burghs Gas Supply (Scotland) Act, 1876," we, the gas commissioners acting under the authority of the said Act for the burgh of [*insert the name of the burgh*], in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the treasurer to the said commissioners for the purposes of the said Act, do hereby grant, convey, and assign to the said [*name of mortgagee*], and his executors, administrators, and assignees [*as the case may be*], the property and works vested and hereafter to be vested in the said commissioners, and the rates and charges to be levied by them under the authority of the said Act, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter in virtue hereof remain as a loan to the said commissioners, for the purposes aforesaid, until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be endorsed hereon, and signed by the said mortgagee or his foresaids and by the treasurer to the said commissioners, and which minute or minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of said mortgagee or his aforesaids, or of the said treasurer, nor tested; and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum), the said commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof, and delivered herewith, and that at the several times mentioned in such warrants, upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to the said commissioners for the contents of such warrants, declaring that the said mortgagee and his foresaids shall not be entitled to make, and that the said commissioners shall not be bound to recognize or register, any partial assignation of these presents, or of the sums of money, principal or interest, herein contained; and that the said commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his

A.D. 1876.

foresaids for or in relation to the preparation, revision, adjustment, or execution of this mortgage, or of any discharge, renunciation, release, assignation, or minute of postponement or renewal thereof. In witness whereof [*testing clause according to law of Scotland*].

[*Signed by two commissioners and treasurer.*]

SCHEDULE (D.)

Form of Interest Warrant.

[*Name of burgh*] Gas.

Mortgage No. , dated 18 .

Interest Warrant—

		£	*s.*	*d.*
For	pounds - shillings			
and	pence - - - -			
	Less income tax - - -			
	£			

Payable on eighteen hundred and ,
at the .

Treasurer.

SCHEDULE (E.)

Form of Discharge.

[*Name of burgh*] Gas.

Received from the treasurer to the gas commissioners acting under "The Burghs Gas Supply (Scotland) Act, 1876," on their behalf, the sum of , being the principal sum contained in the within mortgage (all interest due thereon having been paid), and the said mortgage is now delivered up as paid.

Dated this day of eighteen hundred and .

Burghs (Scotland) Gas Supply.

A

BILL

[AS AMENDED ON RE-COMMITMENT BY THE SELECT COMMITTEE]

To make provision for lighting Burghs in Scotland with Gas.

(*Prepared and brought in by Sir Windham Anstruther, Mr. Orr Ewing, Mr. Grieve, and Mr. William Holms.*)

Ordered, by The House of Commons, *to be Printed,* 30 *May* 1876.

[Bill 175.]

Under 4 *oz.*

LORDS AMENDMENTS

TO THE

BURGHS (SCOTLAND) GAS SUPPLY BILL.

Note.—*The page and line refer to the Bill* (124.) *as first printed by the Lords.*

Page 1.

Line 9, leave out ("or") and insert ("as")

Line 12, after ("Parliament") insert ("or any company, partnership, or person authorised by any Provisional Order confirmed by Act of Parliament")

Line 25, after ("thereof") insert (""Ratepayer" has the same meaning in this Act as "householder" has in the General Police and Improvement (Scotland) Act, 1862, as amended by the General Police and Improvement (Scotland) Act, 1862, Amendment Act")

Page 2.

Lines 32 and 33, leave out ("It shall be lawful for the town council or commissioners of police") and insert ("No such resolution")

Line 33, leave out from ("mentioned") to ("approved") in line 38 and insert ("shall have any validity unless")

Line 39, after the second ("the") insert ("town")

Line 41, leave out ("such adjourned meeting") and insert ("any adjourned special meeting, (of which adjourned special meeting ten days notice in writing shall be given to each member of the town council or commissioner of police, as the case may be,) and in the event of such approval")

Page 3.

Line 2, leave out the second ("of") and insert ("from")

Lines 2 and 3, leave out ("such second meeting") and insert ("the meeting at which such resolution was approved")

Line 3, after ("resolution") insert ("as so approved of")

Page 3.

Line 4, leave out from ("week") to ("in") in line 5 and insert ("in each newspaper published in the burgh, and if "there be no newspaper published in the burgh")

Line 9, leave out ("one-twentieth") and insert ("twenty"), and leave out ("of the")

Line 11, leave out ("commissioners") and insert ("town clerk "or clerk of the commissioners of police, as the case may "be")

Line 14, leave out ("the commissioners or")

Line 21, leave out from ("taken") to ("if") in line 26 and insert ("If no such remonstrance is lodged or")

Line 27, leave out ("shall at the expiration of fourteen days") and insert ("the sheriff shall authorise the resolution to")

Line 31, after ("Act") insert ("If such resolution is not "confirmed, it shall not be lawful for the town council or "commissioners of police again to resolve that this Act be "adopted and applied to the burgh before the expiration of "three years from the date of the previous resolution")

Line 34, leave out ("(1845)")

Line 36, after ("agreement") insert ("and with respect to the "entry upon lands by the promoters of the undertaking")

Page 4.

Line 6, leave out ("are") and insert ("is")

Line 18, leave out ("and")

Line 23, after ("Act") insert ("and the word "lands" shall "include any servitude, right, or privilege in, over, or "affecting lands")

Page 7.

Line 18, leave out ("for the time being"), and after ("com- "panies") insert ("Provided that the commissioners shall "not manufacture or store gas, or any residual products, "upon any lands without the previous consent in writing "of the owner, lessee, and occupier of every dwelling-house "situate within three hundred yards of the limits of such "lands, or until the commissioners shall have made a return "to the Board of Trade setting forth the description and "extent of such lands. But this proviso shall not apply "to lands upon which gas or residual products are "manufactured or stored at the date of the adoption of this "Act")

Page 7.

After clause 18 insert clause (A.):

CLAUSE (A.) Sale of superfluous lands.

The commissioners may sell and dispose of any lands which are vested in them, or which they are authorised to purchase, and which shall not be required for the purposes of this Act, and the provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, sections one hundred and twenty-one to one hundred and twenty-five (both sections inclusive), shall apply to any such sale; and the commissioners may also from time to time sell and dispose of any works, buildings, or erections on any lands belonging to them which shall not be required for the purposes of this Act.

Line 20, after ("Parliament") insert ("or authorised by "provisional order confirmed by Act of Parliament")

Leave out lines 22 and 23 and insert ("such company, if "formed or registered under the Companies Act, 1862, with "the sanction of a special resolution in terms of that Act, "and if not so formed or registered, with the consent of a "majority of three fourths in value of the shareholders or "members of such company")

Lines 24 and 25, leave out ("some general meeting of the "company") and insert ("a meeting")

Line 33, after ("Parliament") insert ("or authorised by "provisional order confirmed by Act of Parliament")

Line 39, after ("consent") insert ("in manner provided by the "last preceding section")

Page 8.

Line 8, leave out the first ("decree") and insert ("decern")

Leave out clause 21.

Line 28, after ("executed") insert ("Provided that such "annuities shall be limited to expire within forty years "from the date of the purchase")

Page 11.

Line 38, leave out ("said") and insert ("such")

Page 12.

Line 13, leave out from ("liens") to the first ("on") in line 16.

Line 39, leave out ("the said certificate being granted") and insert ("such vesting")

Page 13.

Line 7, leave out from ("mortgages") to ("of") in line 9.

Line 35, leave out from ("mortgages") to ("of") in line 36.

Page 15.

Line 18, leave out ("(G.)") and insert ("(E.)")

Page 16.

Line 2, after ("collected") insert ("on property situated "within the burgh")

Line 17, leave out ("from time to time")

Line 33, leave out ("for a") and insert ("the")

Line 34, leave out ("for the repayment of such money and") and insert ("required by this Act, and to provide")

Page 17.

Line 11, after ("company") insert ("or company authorised "by Provisional Order confirmed by Act of Parliament")

Line 32, after ("final") insert ("Provided that if the com- "missioners neglect or refuse to furnish a supply of gas to "such owner or occupier, who has fulfilled or is ready to "fulfil the conditions herein-before mentioned, they shall be "liable to a penalty not exceeding forty shillings for each "day during which such default continues")

Page 18.

After clause 47. insert clause (B.)

CLAUSE (B.) Power to enter buildings to inspect meters, &c. and for ascertaining quantities of gas consumed.

Any officer appointed by the commissioners may at all reasonable times enter any building or land lighted with gas supplied by the commissioners, in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the commissioners a sum not exceeding five pounds.

Page 19.

Line 10, leave out ("willingly")

After clause 54. insert clause (C.)

CLAUSE (C.) Pressure of gas.

All the gas supplied by the commissioners to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six tenths of an inch, and from sunset to midnight not less than eight tenths of an inch in height at the main, as near as may be to the junction therewith of the service pipe supplying such consumer; and any person appointed for the purpose by the sheriff may, subject to the terms of his appointment, from time to time test the pressure at which

the gas is supplied, and may for that purpose open any street, road, passage, or place vested in or under the control of any road authority, and the provisions of this Act with reference to the testing of the illuminating power and purity of gas and to penalties shall, mutatis mutandis, apply to such testing of pressure.

Page 19.

Line 38, leave out ("approved")

Line 39, after ("burner") insert ("approved by the Board of "Trade")

Lines 41 and 42, leave out ("twenty-five") and insert ("fourteen")

Page 20.

Lines 1 and 2, leave out ("the passing of this Act") and insert ("they begin to supply gas")

Line 3, leave out ("approved")

Line 4, after ("burner") insert ("approved by the Board of "Trade")

Line 6, after first ("gas") insert ("and for testing the presence "of sulphuretted hydrogen therein, in accordance with the "regulations prescribed in Part I. of the Schedule A. "annexed to the Gasworks Clauses Act, 1871")

Line 16, after ("power") insert ("and purity")

Line 18, after ("provided") insert ("in accordance with the "rules prescribed in Part II. of the Schedule A. annexed "to the Gasworks Clauses Act, 1871")

Line 21, after ("power") insert ("or purity")

Line 23, after ("power") insert ("or purity")

Line 23, after ("this") insert ("and the recited")

After clause 59 insert clause (D.) :

CLAUSE (D.) Contents of summons or warrant.

Any summons or warrant issued for any of the purposes of this Act may contain, in the body thereof or in a schedule thereto, several names and several sums.

Page 21.

Line 1, after ("Act") insert ("and under the Acts partially "incorporated with this Act")

Page 22.

Line 9, after ("forth") insert ("for the period of forty years")

Line 10, leave out from ("secured") to ("on") in line 13.

Line 14, leave out ("them") and insert ("the said Commis- "sioners under the Burghs Gas Supply (Scotland) Act, "1876")

Page 23.

Line 11, leave out from ("be]") to the first ("the") in line 13.

Line 13, leave out ("them") and insert ("the said Commis-
" sioners")

LORDS AMENDMENTS

TO THE

BURGHS (SCOTLAND) GAS SUPPLY BILL.

Ordered, by The House of Commons, *to be Printed,*
27 July 1876.

[Bill 274.]

Under 1 *oz.*

A

B I L L

TO

Amend the law in Scotland in regard to the division of Burghs into Wards. A.D. 1876.

WHEREAS by the "General Police and Improvement (Scot- "land) Act, 1862, Amendment Act," provision is made for the division into wards of a burgh in the sense of that Act, not being a royal or parliamentary burgh, having by the census last taken a population of above ten thousand persons : 31 & 32 Vict. c. 102.

And whereas by the Municipal Elections Amendment (Scotland) Act, 1868, provision is made for the division into wards of any royal or parliamentary burgh having, by the census last taken, a population of above ten thousand persons : 31 & 32 Vict. c. 108.

And whereas it is expedient to amend such provisions :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act shall extend to Scotland only. Extent of Act.

2. This Act shall be read and construed together with the recited Acts respectively. Construction of Act.

3. The sixth section of the first-recited Act, and the seventeenth section of the second-recited Act, shall be read and construed as if for the words "ten thousand" therein respectively the words "seven thousand" were substituted. Amendment of recited Acts.

Amendment.

A

BILL

To amend the law in Scotland in regard to the division of Burghs into Wards.

(*Prepared and brought in by the Lord Advocate and Mr. Secretary Cross.*)

Ordered, by The House of Commons, *to be Printed,* 24 *May* 1876.

[Bill 166.]

Under 1 *oz.*

A

B I L L

TO

Enable Justices in General and Quarter Sessions and Recorders of Boroughs to try cases of Burglary and Forgery.

A.D. 1876.

WHEREAS justices in general and quarter sessions and the recorders of boroughs are by law prohibited from trying the offences of burglary and of forgery, and such offences differ much in degree:

And whereas it is expedient to empower such justices and recorders to try the said offences:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of part of 5 & 6 Vict. c. 38.

1. So much of the Act of the session of the fifth and sixth years of Her Majesty's reign (chapter thirty-eight) "to define the "jurisdiction of justices in general and quarter sessions of the "peace," as excludes from the jurisdiction of justices and recorders at sessions of the peace, or adjournments thereof, the trial of persons for the offence of burglary or forgery, is hereby repealed as from the passing of this Act.

Jurisdiction of justices in general and quarter sessions and recorders to try the offences of burglary and forgery.

2. Justices in general and quarter sessions and the recorder of any borough at any session of the peace or any adjournment thereof shall have jurisdiction to try any person or persons who shall be charged with the offence of burglary or forgery, and upon conviction thereof to pass such sentence upon him or them as may by law be passed.

Discretionary power to commit for trial at the assizes.

3. All magistrates and justices of the peace before whom any person is charged with either of the said offences shall and may at their discretion, if such person shall be committed for trial, commit him for trial at the assizes or at such general and quarter sessions or session of the peace for any borough respectively as to them may seem fit, having regard to the greater or less gravity of the offence charged.

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Provided always, that such justices and such recorder in general and quarter sessions for trial before whom any person or persons shall be committed charged with the offence of burglary or forgery shall and may in their or his discretion commit the person or persons so charged for trial at the assizes which shall be then next holden for the county in which the said person or persons shall have been so charged as aforesaid: Provided also, that where the person or persons charged with either of such offences shall be committed for trial before such justices or recorder, it shall be lawful for any judge of the High Court of Justice, if he should so think fit, on the application of the person or persons, or any one or more of them, so committed, or of the Attorney-General, to order that such person or persons so committed shall be tried at the assizes to be holden for the county in which such person or persons shall have been so committed, and to make such order in relation thereto as he shall think fit, and thereupon such person or persons shall be tried at the assizes, and all recognizances and subpœnas to appear before such justices in general or quarter sessions, or before such recorder, shall, upon notice of such order to the parties bound under such recognizances and subpœnas, have the effect of recognizances and subpœnas to appear at the assizes.

A

BILL

To enable Justices in General and Quarter Sessions and Recorders of Boroughs to try cases of Burglary and Forgery.

(*Prepared and brought in by Mr. Forsyth, Lord Francis Hervey, Mr. Locke, and Mr. Serjeant Simon.*)

Ordered, by The House of Commons, *to be Printed* 11 *February* 1876.

[Bill 63.]

Under 1 *oz.*

Burial Grounds Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

1. Short Title.
2. Extent of Act.

Constitution of Districts and Authorities.

3. Burial districts.
4. Combined burial districts.
5. Authorities for putting the Act into execution.

Resolution of Ratepayers on putting the Act in force.

6. Summoning officers.
7. Meetings of ratepayers for passing resolutions.
8. Proceedings to be taken when poll is demanded.
9. Certificate of result of poll and meeting.
10. No further meeting to be held for three years on the same question.
11. Expenses of meeting and poll.

Appointment of Committee.

12. Committees in urban districts.
13. Committees in rural burial districts.
14. Power of rural committee to incur expenses to be defrayed by the rural authority.
15. Meetings of rural committees.

Acquisition of Sites for Burial Grounds.

16. Selection of sites for burial grounds.
17. Power to purchase lands.
18. Provisions of the School Sites Acts extended to this Act.
19. Statutes of Mortmain not to apply to gifts and assurances for the purposes of the Act.

Provisions with respect to Burial Grounds.

Clause.
20. Laying out of burial ground.
21. Power to erect a chapel.
22. Power, with approval of the Secretary of State, to fix fees, &c. for interments.
23. Rights of inhabitants to interments.
24. Regulations for ensuring that burials are conducted in a decent and solemn manner.

Incorporation of Statutes.

25. Incorporation of provisions in the Cemeteries Clauses Act, 1847, and the Burial Acts.

Contracts.

26. Contracts.

Expenses and Borrowing Powers.

27. Expenses under the Act.
28. Power to borrow on the security of the rates.
29. Power of Public Works Loan Commissioners to lend to local authorities at a reduced rate of interest.
30. Audit of accounts.
31. Payments received by or on behalf of burial committee.

Miscellaneous.

32. Proceeding where a burial committee are in default.
33. Special provision as to transfer of powers and property in certain cases to burial boards or urban sanitary authorities.
34. Power of Secretary of State to direct inquiries.
35. Registers of burials.
36. Recovery of penalties.
37. Definitions.

Schedule.

A

B I L L

TO

Amend the Law as to the provision of Burial Grounds. A.D. 1876.

WHEREAS it is expedient that additional facilities should be given in certain cases for the provision of unconsecrated burial grounds at the cost of the local rates: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as the "Unconsecrated Burial Grounds Act, 1876." Short title.

2. This Act shall not extend to Scotland or Ireland or the metropolis. Extent of Act.

Constitution of Districts and Authorities.

3. The following places shall be burial districts within the meaning of this Act; that is to say, Burial districts.

(1.) Any urban sanitary district now or hereafter constituted having no part of its area subject to the jurisdiction of a burial board:

(2.) In any rural sanitary district, any contributory place now or hereafter constituted having no part of its area subject to the jurisdiction of a burial board:

(3.) In cases where one or more parts of the area comprised in any urban sanitary district or contributory place now or hereafter constituted is or are subject to the jurisdiction of one or more burial boards, the portion of such urban sanitary district or contributory place which is not subject to the jurisdiction of a burial board.

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Combined burial districts.

4. A Secretary of State may at any time by order form a combined burial district, consisting of any two or more burial districts situated in one and the same rural sanitary district, upon a petition being presented to him in that behalf signed by one twentieth of the ratepayers in each of the burial districts which it is proposed shall be combined; and any such combined burial district shall be deemed to be a burial district for the purposes of this Act.

Authorities for putting the Act into execution.

5. The following shall be the authorities for putting this Act into execution in the foregoing districts; that is to say,

(1.) In burial districts comprised in or being urban sanitary districts (in this Act referred to as urban burial districts), the urban sanitary authority:

(2.) In burial districts or combined burial districts comprised in or being rural sanitary districts (in this Act referred to as rural burial districts,) the rural sanitary authority.

Resolution of Ratepayers on putting the Act in force.

Summoning officers.

6. The following persons shall be summoning officers for the purposes of this Act; that is to say,

(1.) In the case of any urban burial district comprised in or being a borough, the mayor:

(2.) In the case of any urban burial district comprised in or being an Improvement Act district, the chairman of the improvement commissioners:

(3.) In the case of any urban burial district comprised in or being a local government district, the chairman of the local board:

(4.) In the case of any rural burial district, the clerk of the rural sanitary authority:

(5.) If any such officer as aforesaid in any case neglects, is unable, or refuses to perform the duties imposed upon him by this Act, any person appointed by a Secretary of State to act as summoning officer.

If any summoning officer appointed by a Secretary of State becomes unable or refuses or neglects to act, a Secretary of State may appoint another officer in his stead.

Meetings of ratepayers for passing resolutions.

7. Upon a requisition in writing, signed by any twenty ratepayers in any urban or rural burial district, the summoning officer shall, within twenty-one days after receiving such requisition,

summon a meeting of the ratepayers of the burial district, for the purpose of determining whether or not a resolution shall be passed declaring that the provisions of this Act shall come into force in the burial district.

The summoning officer shall give at least seven clear days notice of the time and place of holding such meeting—

By advertisement in some one or more of the local newspapers circulated in the burial district, and

By causing such notice to be affixed to the principal doors of every church and chapel in the burial district to which notices are usually affixed.

Every ratepayer in the burial district shall be entitled to be present and to vote at such meeting.

The summoning officer shall be the chairman of the meeting, unless he is unable or unwilling to preside, in which case the meeting on assembling shall choose one of its own number as chairman.

The chairman shall propose to the meeting the resolution that the provisions of this Act shall come into force in the burial district, and if the votes of at least one fourth of the persons present and voting, and duly qualified to vote, are in favour of the resolution and no poll is demanded at the meeting as herein-after provided, or the demand for any such poll is withdrawn as herein-after provided, the resolution shall be deemed to have been carried, and the provisions of this Act shall come into force in the burial district, and the chairman shall forthwith certify the result to the local authority and to a Secretary of State.

Proceedings to be taken when poll is demanded.

8. If any three ratepayers demand at the meeting that the question be decided by a poll of the ratepayers of the burial district, and such demand is not withdrawn within three days by the persons making it, such poll shall be taken on a day to be fixed by the summoning officer, which shall not be less than twenty-one or more than thirty clear days after the date of the meeting.

The poll shall be conducted by the summoning officer in accordance with such regulations as a Secretary of State may from time to time by order prescribe, and a Secretary of State may from time to time make regulations as to the duties, remuneration, and expenses of the summoning officer and any person or persons appointed or employed by him for the purpose of such poll, and respecting all other necessary things preliminary or incidental to such poll, and may from time to time revoke or alter any such regulations: Provided that every ratepayer shall be entitled to one vote, and that the poll shall, so far as circumstances admit, be conducted in like

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manner as a poll at a contested municipal election is directed by the Ballot Act, 1872, to be conducted, and, subject to any such regulations as aforesaid, the provisions of that Act shall apply to the voting for or against the resolution.

For the purposes of any such meeting or poll as aforesaid, the overseers and other persons having the custody of the book containing the last rate made for the relief of the poor, more than one month previously to the date of any such meeting or poll, for any parish forming or wholly or partially included in any urban or rural burial district shall, when required by the summoning officer, produce such rate book to him, and allow him or any person appointed by him to inspect the same and take copies or extracts therefrom. Any person having the custody of such rate book who refuses or fails to comply with the requirements of the summoning officer with respect to the production, inspection, or taking of copies or extracts therefrom shall be liable to a penalty not exceeding *five pounds* for every day during which he so refuses or fails.

In the event of at least one fourth of the votes given at the poll being in favour of the resolution, the provisions of this Act shall come into force in the burial district, and the summoning officer shall forthwith certify the result to the local authority and to a Secretary of State.

Certificate of result of poll and meeting.

9. The certificate of the chairman of the result of the meeting and the certificate of the summoning officer of the result of the poll shall, in the absence of proof to the contrary, be sufficient evidence of the decision of the ratepayers at any such meeting or poll as aforesaid.

No further meeting to be held for three years on the same question.

10. If the result of any meeting or poll as aforesaid is that the resolution in respect of which such meeting was summoned or poll taken has been negatived by a majority of three fourths of the voters, then, notwithstanding any further requisition, the summoning officer shall not summon any further meeting of the ratepayers of the burial district for the purpose of passing the same resolution for the space of three years from the date of the meeting.

Expenses of meeting and poll.

11. The reasonable expenses and remuneration of the summoning officer in relation to any such meeting or poll as aforesaid, together with a reasonable remuneration for the services of any person or persons appointed or employed by him for the purpose of any such poll, shall, subject to any regulations to be made by a Secretary of State under this Act, be raised and paid by the local authority, in the same manner as if they had been expenses incurred by such authority in accordance with the provisions of this Act.

If any question shall arise between the summoning officer and the local authority as to the amount of such expenses and remuneration, such question shall be referred to a Secretary of State, whose decision thereon shall be final.

Appointment of Committee.

Committees in urban districts.

12. When the provisions of this Act have come into force in any urban burial district the urban sanitary authority may from time to time appoint committees for any of the purposes of this Act, and any such committee shall, so far as the difference of circumstances will permit, have the like powers and be subject to the like regulations and restrictions as if it had been formed by the urban sanitary authority under the Public Health Act, 1875, and the purposes of this Act were purposes of that Act.

Committees in rural burial districts.

13. When the provisions of this Act have come into force in any rural burial district the rural sanitary authority shall, at a meeting specially convened for the purpose within one month after the result of any such meeting or poll as aforesaid has been certified to them, appoint a burial committee for such burial district, and shall from time to time thereafter, at meetings specially convened for the purpose, select, in accordance with the provisions of this Act, a sufficient number of persons to fill up the vacancies that from time to time occur in the number of the selected members of such committee.

Every such committee shall consist partly of ex-officio members and partly of members selected by the authority.

The ex-officio members of every such committee shall be,—

(1.) Every ex-officio guardian resident in the burial district:

(2.) Every elective guardian of any parish wholly or partly comprised in the burial district.

The selected members of every such burial committee shall be such number of persons resident in the burial district and rated to the poor rate as the rural sanitary authority may, with the consent of a Secretary of State, determine.

The selected members shall continue in office for *three years* from the date of their selection, and prior to the expiration of that time the rural sanitary authority shall, subject to the provision herein-after contained with respect to the diminution of the number of selected members, from time to time fill up the vacancies by the selection of a number of members equal to the number of the retiring members.

Any casual vacancy among the selected members occurring by death, resignation, or otherwise, shall, subject to the provision

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herein-after contained with respect to the diminution of the number of selected members, be filled up out of qualified persons by the rural sanitary authority, but any member so chosen shall retain his office only so long as the vacating member would have retained the same if the vacancy had not occurred.

Any retiring selected member shall be eligible for re-election.

The rural sanitary authority may at any time, with the consent of a Secretary of State, increase the number of selected members, and may from time to time, with such consent, diminish their number on the occasion of any casual vacancy or when filling up the vacancies of members retiring at the expiration of their term of office.

In selecting members for the burial committee of any combined burial district the rural sanitary authority shall, so far as practicable, make such a selection as will secure the due representation of each of the constituent burial districts.

Power of rural committee to incur expenses to be defrayed by the rural authority.

14. The burial committee in any rural burial district may, in the exercise of any powers given to them by this Act, incur expenses not exceeding such amount as shall be prescribed by the rural sanitary authority. If at any time the rural sanitary authority refuse or neglect to prescribe such an amount as will in the opinion of the burial committee be sufficient to enable them to perform the duties imposed upon them by this Act, the burial committee may represent such neglect or refusal to a Secretary of State; and in case it shall appear to the Secretary of State that the burial committee are unable to proceed effectually in the performance of their duties by reason of such refusal or neglect, it shall be lawful for the Secretary of State by order to authorise the burial committee to incur expenses, not exceeding such amount as shall be prescribed in the order.

All expenses legally incurred by the burial committee in any rural burial district in accordance with the provisions of this Act shall be defrayed by the rural sanitary authority.

Meetings of rural committees.

15. The meetings of every burial committee appointed for a rural burial district shall be held and the proceedings conducted in accordance with the rules contained in the schedule to this Act.

Acquisition of Sites for Burial Grounds.

Selection of sites for burial grounds.

16. As soon as may be after a resolution has been carried that the provisions of this Act shall come into force in an urban burial district, the urban sanitary authority shall proceed to provide an unconsecrated burial ground for such district.

Every burial committee appointed under this Act by a rural sanitary authority shall, if no convenient site for an unconsecrated burial ground can be acquired otherwise than by purchase, as soon as may be after their appointment proceed to select one or more fitting sites for such a burial ground, and to make a report of their selection to the rural sanitary authority.

The rural sanitary authority shall, on the receipt of any such report, forthwith take such proceedings as may be necessary to enable them to acquire the site, or, as the case may be, one of the sites selected, unless in their opinion no site selected is a proper one or is likely to be acquired at a reasonable cost.

If any question shall arise between the burial committee and the rural sanitary authority whether or not any site is a proper one or likely to be acquired at a reasonable cost, the question may be referred by either party to a Secretary of State, whose decision on the question shall be final.

Any burial ground provided under this Act may be situate either within or without the burial district for which it is provided, but in the selection of the site regard shall be had to the convenience of access thereto from the different parts of the burial district.

Power to purchase lands.

17. The urban sanitary authority in any urban burial district and the rural sanitary authority in any rural burial district may for the purpose of acquiring a site for a burial ground under this Act purchase any lands, but any lands so purchased and not required for the purpose for which they have been acquired shall, as soon as may be, be sold by the authority at the best price that can be gotten for them, and the proceeds applied in part payment of the purchase money or towards the discharge either by means of a sinking fund or otherwise of any principal moneys which have been borrowed by the authority under this Act.

For the purpose of any such purchase as aforesaid the provisions of the hundred and seventy-sixth section of the Public Health Act, 1875, with respect to the purchase of lands by local authorities, shall be incorporated with this Act and shall have effect as if the purposes of this Act were purposes of that Act: Provided that a Secretary of State shall be deemed to be substituted throughout the section for the Local Government Board.

Provisions of the School Sites Acts extended to this Act.

18. All persons empowered under the School Sites Acts to grant, convey, or enfranchise lands by way of gift, sale, or exchange in fee simple as sites for schools may to the same extent, and subject to the same restrictions and conditions, grant, convey, or enfranchise lands to the urban sanitary authority in any urban burial

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district, or to the rural sanitary authority in any rural burial district, by way of gift, sale, or exchange, as sites for burial grounds under this Act, and in the event of the exercise by any person of the powers conferred by this section this Act shall be deemed to have extended the provisions of the School Sites Acts so far as they relate to grants, conveyances, and enfranchisements by such persons in such a manner that they shall be read and construed throughout, so far as the difference of circumstances will permit, as if the purposes of this Act were purposes of the School Sites Acts.

Statutes of Mortmain not to apply to gifts and assurances for the purposes of the Act.

19. All gifts and assurances of land of any tenure, and whether made by deed or by will or codicil, for the purpose of a burial ground under this Act, and all bequests of personal estate to be applied in or towards the purchase of any such burial ground, shall be valid notwithstanding the Statutes of Mortmain, if made at least twelve calendar months before the death of the grantor or testator, and enrolled in the books of the Charity Commissioners within six calendar months after the time when such deed, codicil, or will shall come into operation. Any such gift or assurance or bequest may be made conditional upon the provisions of this Act coming into force in the burial district for the benefit of which the gift or assurance or bequest is made within a limited period not exceeding ten years, and subject to any other conditions and restrictions not inconsistent with the provisions of this Act.

Provisions with respect to Burial Grounds.

Laying out of burial ground.

20. The urban sanitary authority in an urban burial district and the burial committee in a rural burial district shall, as soon as may be after any lands have been acquired in accordance with the provisions of this Act for the purposes of a burial ground for their burial district, lay out the same or so much thereof as may be necessary as a burial ground, and make fit and proper arrangements for facilitating interments therein in accordance with the provisions of this Act, and no land so laid out as a burial ground and used for the burial of the dead shall at any time thereafter be used for any other purpose whatsoever.

No ground shall be used as a burial ground under this Act nearer than one hundred yards from any dwelling-house without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Power to erect a chapel.

21. The urban sanitary authority in any urban burial district and the burial committee in any rural burial district may, with

the consent of the ratepayers of the burial district, to be given by a resolution carried in like manner as a resolution for putting in force the provisions of this Act, and either at the time of carrying any such resolution, or subsequently, build on any land acquired as a site for a burial ground under this Act, a suitable chapel for the performance of burial services, and shall maintain the same in an efficient state of repair, and may from time to time improve or enlarge the same.

In any case where separate burial grounds have been provided for two or more burial districts under this Act, and such burial grounds adjoin one another, the urban sanitary authorities or rural burial committees in such burial districts may, with such consent as aforesaid, combine for the purpose of building and maintaining upon any site or sites acquired under this Act, a common chapel for the performance of burial services on such terms as to payment, user, and otherwise as may be mutually agreed upon.

Power, with approval of the Secretary of State, to fix fees, &c. for interments.

22. The urban sanitary authority in any urban burial district and the burial committee in any rural burial district may, subject to the approval of the Secretary of State, fix and settle such fees and payments in respect of interments in any burial ground provided under this Act, as they may think fit, and from time to time revise and alter the same, provided that the fees and payments to be paid in respect of interments in any such burial ground, of the bodies of persons not being inhabitants of the burial district, shall be on a higher scale than the ordinary charges for the time being made in respect of interments therein of the bodies of persons being inhabitants of the burial district.

Rights of inhabitants to interment.

23. Subject to the provisions of this Act, the inhabitants of any burial district in which a burial ground is provided under this Act, shall have a right of sepulture therein.

Regulations for ensuring that burials are conducted in a decent and solemn manner.

24. The urban sanitary authority in every urban burial district, and the burial committee in every rural burial district in which a burial ground has been provided under this Act, shall make regulations, to be approved by a Secretary of State, for ensuring that all burials within the burial ground are conducted in a decent and solemn manner.

Incorporation of Statutes.

Incorporation of provisions in the Ceme-

25. For the purposes of this Act the following provisions shall be incorporated therewith, and apply, mutatis mutandis, to the urban sanitary authority in every urban burial district, and to the

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teries Clauses Act, 1847, and the Burial Acts.

burial committee in every rural burial district, and to every burial ground provided under this Act; that is to say,—

Of the Cemeteries Clauses Act, 1847,—

With respect to the making of the cemetery, sections twelve to seventeen both inclusive:

With respect to the prevention of nuisances from the cemetery, sections eighteen and nineteen:

With respect to exclusive rights of burial and monumental inscriptions in the cemetery, sections forty to forty-eight, both inclusive, and section fifty:

With respect to the protection of the cemetery, sections fifty-eight and fifty-nine.

Of the Burial Act, 1852,—

Section fifteen (Board may appoint and remove officers, &c.):

Section sixteen (so far as the same relates to minutes of proceeding of the Board):

Section seventeen (penalty for refusing to allow inspection):

Section forty-four (Secretary of State may make regulations as to burial grounds, &c.)

Of the Burial Act, 1855,—

Section eight (Secretary of State may direct inspection of burial ground. Penalty for obstructing inspector or violating regulations): and section fifteen (Assessment to local rates not to be increased after purchases for the purpose of this Act), and

Of the Burial Act, 1857,—

Section fourteen (Exempting funerals in certain cases from tolls); and section twenty-five (Bodies not to be removed from burial ground without license from Secretary of State):

Provided that the prescribed materials and dimensions of the walls and fences of the burial ground shall be such as may for the time being be prescribed by the Secretary of State:

Provided also, that the payments to be made in respect of any such exclusive right as aforesaid shall be fixed, subject to the approval of the Secretary of State, and when made shall be treated as capital by the local authority, and either paid into and invested as part of any sinking fund to be established under this Act; or, if there be no such fund, invested in like manner as if they had formed part of such fund; and the interest accruing therefrom shall, in the latter case, be applied in aid of the current expenses of the urban sanitary authority or rural burial committee, as the case may be:

Provided also, that the consent or approval of the vestry shall not be necessary to any matter or thing done by the urban sanitary authority or burial committee under any of the above provisions.

For the purposes of this Act the following provisions shall be incorporated therewith, and apply, mutatis mutandis, to every urban and rural sanitary authority; that is to say,—

Of the Burial Act, 1852,—

Section twenty-nine (Burial Board may, with approval of the vestry, &c., appropriate land belonging to the parish); and—

Of the Burial Act, 1855,—

Section seventeen (Burial Board may let lands not required for burials).

Contracts.

Contracts.

26. Every urban and rural sanitary authority and every burial committee may enter into any contracts that may be necessary to enable them to put into execution any of the powers conferred on them by this Act, and for the purposes of any such contract a burial committee shall be regarded as the agent of the rural sanitary authority: Provided that nothing in this section shall authorise a burial committee to incur expenses exceeding the amount prescribed by the rural sanitary authority or by an order of a Secretary of State.

Every contract entered into by any urban or rural sanitary authority under this Act shall be in writing, and sealed with the seal of the authority, and every contract entered into by the burial committee in any rural sanitary district shall be in writing, and signed by at least three members of the committee.

Every such contract shall specify the work, materials, matters, or things to be furnished, had, or done, the price to be paid, and the time or times within which the contract is to be performed, and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed.

Expenses and Borrowing Powers.

Expenses under the Act.

27. All expenses incurred by any urban or rural sanitary authority or burial committee in accordance with the provisions of this Act, and not defrayed out of fees or the produce of sales under this Act, or by voluntary subscriptions, shall be defrayed as follows; that is to say:—

(1.) In the case of any urban burial district by the urban sanitary authority out of the rate applicable by them

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under the Public Health Act, 1875, for general sanitary purposes throughout the whole of the urban sanitary district: Provided that where such urban burial district forms a part only of the urban sanitary district the expenses shall be defrayed by means of a separate assessment to be collected in cases where the last-mentioned rate is a borough rate in like manner as if the urban burial district had formed part of a parish, the remainder of which was not comprised in the borough, and in cases where such rate is a general district rate, or a rate in the nature of a general district rate, in like manner as if the urban sanitary district had been divided into parts for the purposes of such rate under the Public Health Act, 1875, and the urban burial district was one of such parts and the purposes of this Act were purposes of that Act:

(2.) In the case of any rural burial district by the rural sanitary authority in like manner as if they had been special expenses incurred under the Public Health Act, 1875, in respect of the contributory place or contributory places, all or parts of which form or are comprised in such rural burial district: Provided that in a combined burial district such expenses shall be apportioned among the constituent rural burial districts in proportion to their rateable value as ascertained by the valuation lists for the time being in force in the constituent parishes, and if there are no such lists, then as stated in the rate books for the time being in force in such parishes: Provided also, that when a rural burial district forms or comprises part of any contributory place any contribution payable under this Act on behalf of such part of a contributory place shall be raised in the same manner, so far as the difference of circumstances will admit, as if the contributory place were a parish, and such part thereof were a special drainage district within the meaning of the Public Health Act, 1875.

Power to borrow on the security of the rates.

28. Any urban or rural sanitary authority may by the mortgage of any rate out of which they are authorised to defray expenses incurred under this Act, borrow and re-borrow with the sanction of a Secretary of State any sums that may be necessary for the purpose of defraying any expenses incurred under this Act, which ought in the opinion of the Secretary of State to be spread over a number of years.

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Every sum so borrowed shall be repaid within fifty years from the date of the borrowing, or within such shorter time as the Secretary of State shall in each case determine, and the repayment shall be effected either by equal annual instalments of principal or of principal and interest, or by setting aside annually as a sinking fund and investing in Government securities, or in any securities in which trustees are by law for the time being authorised to invest trust moneys or in securities issued under the Local Loans Act, 1875, such a sum as with accumulations at compound interest will be sufficient after payment of all expenses to pay off the loan for which the fund is established within the period for which such loan has been sanctioned.

Any urban or rural sanitary authority may at any time apply the whole or any part of any sinking fund set aside under this Act in or towards the discharge of the loan for the repayment of which the fund has been established: Provided that they pay into the fund in each year, and accumulate until the whole of the loan is repaid, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

Any urban or rural sanitary authority may, if it thinks fit, borrow any loan which it is authorised to borrow under this Act by the issue of debentures, debenture stock, or annuity certificates under the Local Loans Act, 1875.

Power of Public Works Loan Commissioners to lend to local authorities at a reduced rate of interest.

29. The Public Works Loan Commissioners may on the recommendation of a Secretary of State, make loans to any local authority borrowing, in accordance with the provisions of this Act, on the security of any rate applicable to the purposes of this Act, and without requiring any further or other security, every such loan to bear interest at the rate of *three and a half* per centum per annum, or such other rate as may in the judgment of the Commissioners of the Treasury be necessary in order to enable the loan to be made without loss to the Exchequer.

Audit of accounts.

30. The accounts under this Act of every urban and rural sanitary authority, and their officers, and of overseers collecting or paying any money for the purposes of this Act, shall be made up and balanced and deposited and be open to inspection in like manner and with the like incidents and consequences, and shall be audited by the same persons, and with the same powers, incidents, and consequences, as if they were accounts of such authorities, officers, and overseers under the Public Health Act, 1875, and the purposes of this Act were purposes of that Act.

Payments received by or on behalf

31. All fees and payments in respect of interments or exclusive rights of interment, and all other sums received by or on behalf of

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of burial committee.

any burial committee under this Act in any rural burial district, shall be paid to the treasurer of the rural sanitary authority at such times and in accordance with such regulations as the rural sanitary authority may prescribe, and the accounts of every person receiving any such moneys shall be audited by the auditor of the accounts of the rural sanitary authority, with the same powers, incidents, and consequences as if they had been accounts of officers of the rural sanitary authority.

Miscellaneous.

Proceeding where a burial committee are in default.

32. When a Secretary of State is, after such inquiry as he thinks sufficient, satisfied that the burial committee of any rural burial district have made default in carrying into effect any of the provisions of this Act which it is their duty to carry into effect, he may by order declare such committee to be in default, and by the same or any other order appoint any persons not less than five, or more than fifteen to be members of such committee; and thereupon such of the persons who were previously members of the burial committee as are not included among the members appointed by the Secretary of State shall be deemed to have vacated their offices as if they were dead, and the members so appointed by the Secretary of State shall have all the powers of a burial committee under this Act, and shall continue in office during the pleasure of the Secretary of State; and the Secretary of State may at any time when he considers that the default has been remedied, direct that a burial committee be appointed for such rural burial district by the rural sanitary authority, and after a burial committee has been appointed by the rural sanitary authority, in accordance with such direction, the persons appointed by the Secretary of State shall cease to be members of the burial committee, except so far as they may be included among the burial committee appointed by the rural sanitary authority.

Special provision as to transfer of powers and property in certain cases to burial boards or urban sanitary authorities.

33. If at any time after a burial ground has been provided for any urban or rural burial district under this Act, a burial board is established for such district or any part thereof, or the whole or any part of the area of any rural burial district becomes an urban sanitary district, or wholly or partially absorbed or included in an urban sanitary district, or any change is made in the constitution of any one or more contributory places in any rural burial district, a Secretary of State may make an order declaring to what extent, if any, and upon what conditions, the powers, rights, duties, liabilities, and property under this Act of the urban or rural sanitary authority or the burial committee shall be transferred to such

burial board or to the urban sanitary authority, as the case may be, and to what extent, if any, and upon what conditions such powers, rights, duties, and liabilities shall continue to be exerciseable by such urban or rural sanitary authority or burial committee, or shall be deemed to have been determined, and to what extent, if any, such change in the constitution of any such contributory place, shall be deemed to have affected any powers, rights, duties, and liabilities of the rural sanitary authority or the burial committee, or the inhabitants of such contributory place; and any order made by the Secretary of State under this section shall be conclusive on all persons interested therein.

Power of Secretary of State to direct inquiries.

34. The Secretary of State may cause to be made such local inquiries, as he may see fit, in relation to any matter with respect to which he is empowered to make orders or to give his decision, sanction, or consent under this Act.

Any local inquiry directed by the Secretary of State under this Act shall be held in like manner as if it were a local inquiry under the Public Health Act, 1875, and the provisions of sections two hundred and ninety-four to two hundred and ninety-six, both inclusive, of that Act, shall apply to any such inquiry, and shall be read and construed as if the words "Secretary of State" were substituted in such provisions for the words "Local Government Board."

Registers of burials.

35. The provisions of the Burial Acts with respect to the registers to be kept of burials within burial grounds provided under those Acts, shall apply to burials within burial grounds provided under this Act, and as if the urban sanitary authority in every urban burial district, and the burial committee in every rural burial district were a burial board under the Burial Acts.

Recovery of penalties.

36. Any penalty recoverable under this Act may be recovered in the same way as if it were a penalty recoverable under the Public Health Act, 1875.

Definitions.

37. In this Act the following words and expressions shall have the following meanings, unless such meanings are repugnant to or inconsistent with the context; that is to say,

"Person" shall apply to and include corporations, whether aggregate or sole:

"Borough," "the metropolis," "Local Government District," "Improvement Act District," "urban sanitary district," "rural sanitary district," "contributory place," "Improve-

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" ment Commissioners," " local authority," shall have the same meanings as are respectively assigned to them in the Public Health Act, 1875:

" Secretary of State " means one of Her Majesty's Principal Secretaries of State:

" Ratepayer " includes every person whose name appears on the book containing the last poor rate for any parish forming or wholly or partially included in the urban or rural burial district in respect of which he claims to vote, made more than one month previously to the date of voting at any meeting or poll of ratepayers under this Act, and no person whose name does not so appear shall be entitled to vote as a ratepayer:

" The School Sites Acts " means the Act of the fourth and fifth years of the reign of Her present Majesty, chapter thirty-eight (The School Sites Act, 1841), the Act of the seventh and eighth years of the reign of Her present Majesty, chapter thirty-seven (The School Sites Act, 1844), the Act of the twelfth and thirteenth years of the reign of Her present Majesty, chapter forty-nine (The School Sites Act, 1849), the Act of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter twenty-four (The School Sites Act, 1851):

" The Statutes of Mortmain " means the Act of the ninth year of the reign of King George the Second, chapter thirty-six, and the other Statutes commonly known as the " Statutes of " Mortmain:"

" The Burials Acts, 1852," means the Act of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter eighty-five (An Act to amend the laws concerning the burial of the dead in the Metropolis):

" The Burial Act, 1855," means the Act of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty-eight (An Act further to amend the laws concerning the burial of the dead in England):

" The Burial Act, 1857," means the Act of the twentieth and twenty-first years of the reign of Her present Majesty, chapter eighty-one (An Act to amend the Burial Acts).

SCHEDULE.

Rules applicable to Meetings of Rural Burial Committees.

1. A committee may meet and adjourn as it thinks proper.

2. The quorum of a committee shall consist of such number of members as may be prescribed by the authority that appointed the committee, or if no number is prescribed, of three members.

3. A committee may appoint a chairman of its meetings.

4. If no chairman is elected, or if the chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.

6. In case of an equal division of votes the chairman shall have a second or casting vote.

7. The proceedings of a committee shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such committee or of any member thereof.

8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

A

BILL

To amend the Law as to the provisions of Burial Grounds.

(*Prepared and brought in by Mr. John Talbot, Mr. Cubitt, and Mr. Wilbraham Egerton.*)

Ordered, by The House of Commons, *to be Printed*, 14 *February* 1876.

[Bill 67.]

Under 3 *oz.*

Cattle Disease (Ireland).

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

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2. Interpretation.
3. Construction of Act.

Orders by Lord Lieutenant and Privy Council.

4. Power to Lord Lieutenant and Privy Council to make orders.
5. Effect of order.

Proceedings of Guardians after Order.

6. Proceedings of guardians.
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8. Appointment of inspectors and other officers.
9. Removal of local inspectors.
10. Reports to Privy Council, &c.
11. Reservation for experimental treatment.
12. Record respecting slaughter.

Expenses.

13. Mode of payment of compensation.
14. Proceedings in case of default.

A

B I L L

TO

Amend the Acts relating to Cattle Disease in Ireland. A.D. 1876.

WHEREAS it is expedient to make further provisions to prevent the introduction into Ireland and the occurrence or spreading therein of cattle plague or rinderpest pleuro-pneumonia sheep-pox and glanders, and for such purpose to amend the Cattle Disease Act (Ireland), 1866, and the Acts amending the same:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as The Cattle Disease (Ireland) Act, 1876. Short title.

2. The term "principal Acts" in this Act shall mean the Cattle Disease Act (Ireland), 1866, and the Cattle Disease (Ireland) Amendment Act, 1870; and the term "animal" in this Act shall, in addition to the meaning assigned to the same term by the principal Acts, include horse. Interpretation.

3. The principal Acts, as amended by this Act, and this Act shall be construed together as one Act. Construction of Act.

Orders by Lord Lieutenant and Privy Council.

4. In addition to the purposes for which the Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland, is empowered by the principal Acts to make orders, he may, with the like advice, from time to time, in case cattle plague or rinderpest pleuro-pneumonia sheep-pox or glanders shall, to his satisfaction, Power to Lord Lieutenant and Privy Council to make orders.

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be shown to exist within the area of any poor law union in Ireland, make an order for the purposes following:

For authorising and directing the board of guardians of such poor law union to provide for the compulsory slaughter and burial of animals affected with any of the said diseases, or that have been in contact with animals so affected, or that are likely to propagate by infection any of the said diseases;

For the appointment by the board of guardians of such poor law union of local inspectors and valuers for the purposes of this Act;

For defining the powers of and regulating the duties to be performed by such local inspectors and valuers respectively;

For fixing the period or periods for which such local inspectors and valuers shall be appointed, and the remuneration and allowances to be paid to them respectively;

For fixing the amount of compensation to be paid in respect of animals slaughtered in pursuance of this Act where the same is not prescribed by the principal Acts;

For regulating the proceedings before valuers under this Act for ascertaining the amount of compensation payable in respect of animals slaughtered in pursuance of such orders, and generally for such purposes as he may, with the like advice, think expedient for the due execution of this Act;

and the provisions of the principal Acts with respect to orders made in pursuance thereof shall, so far as they may be applicable, extend and apply to any orders made under the authority of this Act.

Effect of order.

5. Where any order has been made under the authority of this Act, the following provisions of this Act shall be in force and apply, and the terms "the guardians" and "the union" therein used shall be construed to mean the board of guardians for the poor law union to which such order relates and such union respectively.

Proceedings of Guardians after Order.

Proceedings of guardians.

6. The proceedings of the guardians under this Act shall, except where by this Act otherwise expressly prescribed, be regulated by the provisions of the laws for the time being in force for the relief of the poor in Ireland relating to proceedings of boards of guardians of poor law unions; and, save as aforesaid, the guardians shall, in the execution of this Act, act as guardians of such poor law union, but with the additional powers and subject to the additional duties by this Act conferred and imposed upon them.

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Appointment of committees. 32 & 33 Vict. c. 70. s. 11.

7. The guardians may form a committee or committees, and may delegate to any such committee all or any powers conferred on them by this Act, and they may from time to time revoke or alter any power given by them to a committee.

The guardians may appoint and designate any such committee as their executive committee for the purposes of this Act.

Such an executive committee shall have all the powers of the guardians under this Act, and may appoint a sub-committee or sub-committees, and delegate to them all or any powers of the executive committee, with or without conditions or restrictions, and from time to time revoke or alter any such delegation, and fix the quorum, and add to or diminish the number of the members, or otherwise alter the constitution of a sub-committee, and lay down rules for the guidance of a sub-committee, who shall act accordingly.

Proceedings of a committee or sub-committee shall not be invalidated by any vacancy in the committee or sub-committee.

In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by such guardians.

A committee formed by the said guardians may consist wholly of such guardians, or partly thereof and partly of such other persons being occupiers rated to the relief of the poor in the union and qualified to be elected guardians in such union; provided that not less than one third nor more than one half of the members of such committee shall be ex-officio guardians of the union.

A committee appointed by the guardians and a sub-committee of an executive committee may elect a chairman of their meetings.

If no chairman is elected, or if the chairman elected is not present at the time appointed for the holding of a meeting, the members then present shall choose one of their number to be chairman of the meeting.

A committee or sub-committee may meet and adjourn as they think proper.

Every question at a meeting of a committee or sub-committee shall be determined by a majority of votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

Appointment of inspectors and other officers. 32 & 33 Vict. c. 70. s. 12.

8. The guardians shall from time to time appoint such persons as they think fit to fill the offices of local inspectors and valuers in accordance with the directions in the order in that behalf contained, and shall assign them such duties and award them such remuneration and allowances as, subject to the terms of the order in that behalf, they may think fit, and they may at any time revoke

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any appointment so made, but so that they shall at all times keep appointed at least one local inspector.

Removal of local inspectors. 32 & 33 Vict. c. 70. s. 13.

9. The Lord Lieutenant, if satisfied on inquiry that a local inspector so appointed as aforesaid is incompetent, or has been guilty of misconduct or neglect in the discharge of his duty, may, if he think fit, direct his removal, and thereupon he shall cease to be local inspector for the purposes of this Act.

Reports to Privy Council, &c. 32 & 33 Vict. c. 70. s. 14.

10. The guardians, and every local inspector appointed by them, shall make such reports to the Lord Lieutenant as the Lord Lieutenant may from time to time require.

Reservation for experimental treatment. Ib., s. 73.

11. The Lord Lieutenant, by and with the advice of the Privy Council, may make an order reserving for experimental treatment any animal liable to be slaughtered under the authority of this Act, but compensation shall be payable in respect thereof as if this section had not been enacted.

Record respecting slaughter. Ib., s. 74.

12. The guardians shall keep, in such manner and form as the Lord Lieutenant and the Privy Council from time to time by order direct or approve, a record relative to proceedings under this Act, stating the date of any order for slaughter, and the execution of the order, or the reservation of any cattle for experimental treatment (as the case may be), and other proper particulars; and such record shall be evidence if any question arises concerning an order for the slaughter of any animal, or concerning compensation in respect thereof.

Expenses.

Mode of payment of compensation.

13. The remuneration and allowances from time to time payable to any local inspector and valuer appointed under the authority of this Act by the guardians, and all sums payable to any person by way of compensation in respect of animals slaughtered under any order under the authority of this Act in the union, shall, when due, be paid to such local inspector, valuer, and person respectively by the treasurer of such union out of any moneys in his hands to the credit of the guardians of such union, and if there shall be then no sufficient assets in his hands out of the moneys next received by him, and placed to the credit of the guardians; and such treasurer, on proof to the satisfaction of the Chief or Under Secretary to the Lord Lieutenant of the payment of any moneys for such purposes as aforesaid, in accordance with the provisions of this Act, shall be entitled to a certificate to that effect, and to an order, signed by such Chief or Under Secretary, for the payment out of the moneys for the time being in the Bank of Ireland to the credit of the Cattle Plague

account, under the principal Acts, of one half of the moneys so certified to have been paid, and thereupon the amount stated in such order shall be paid out of such moneys as aforesaid to such treasurer, and the same shall when so paid be by him carried to the credit of such union.

Proceedings in case of default.

14. In case the guardians fail to comply with the terms of any order under this Act, and the Lord Lieutenant, by and with the advice of the Privy Council, shall, under the authority of the principal Acts, make any order for compulsory slaughter of animals in the union, then and in such case half the amount of the expenses incurred in carrying such order into effect (including) compensation paid in respect of animals slaughtered in pursuance thereof shall, on the order of the Chief or Under Secretary, be paid into the Bank of Ireland to the credit of the Cattle Plague account under the principal Acts by the treasurer of the union out of any moneys in his hands to the credit of the guardians, and if there shall be then no sufficient assets in his hands, out of the moneys next received by him and placed to the credit of the guardians.

Cattle Disease (Ireland).

A

BILL

To amend the Acts relating to Cattle Disease in Ireland.

(*Prepared and brought in by Sir Michael Hicks-Beach and Mr. Solicitor-General for Ireland.*)

Ordered, by the House of Commons, *to be Printed*, 2 March 1876.

[Bill 94.]

Under 1 *oz.*

A

B I L L

TO

Amend the laws relating to the Jurisdiction of Chairmen of Quarter Sessions in Ireland. A.D. 1876.

WHEREAS under the provisions of an Act passed in the session of Parliament held in the fourteenth and fifteenth years of the reign of Her present Majesty, chapter fifty-seven, and of the Acts amending the same, (in this Act referred to as "the principal Acts,") the Lord Lieutenant of Ireland is empowered to nominate and appoint to the office of chairman of the quarter sessions of each and every county and riding of a county in Ireland a barrister having the qualification by the principal Acts prescribed: 14 & 15 Vict. c. 57.

And whereas it is expedient to enable the Lord Lieutenant whenever a vacancy shall occur in the office of chairman of the quarter sessions of any county, in case he shall so think fit, to appoint a person holding the office of chairman of quarter sessions of another county to fill such vacancy, and to exercise the jurisdiction of chairman of quarter sessions in both such counties:

And whereas it is expedient to make provisions such as are in this Act contained with respect to the exercise of such jurisdiction as aforesaid, and generally with respect to the exercise of jurisdiction at quarter sessions in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Chairmen of Quarter Sessions (Ireland) Jurisdiction Act, 1876." Short title.

2. Whenever a vacancy shall occur in the office of chairman of the quarter sessions of a county, which county is in this Act On vacancy of chairmanship Lord

A.D. 1876.

Lieutenant may appoint person holding office as chairman of another county to fill vacancy.

referred to as the "vacant county," the Lord Lieutenant may, in case he shall so think fit, appoint the chairman of some other county, who shall have been appointed since the *first day of January one thousand eight hundred and seventy-four*, or who shall consent thereto, to fill such vacancy; and thereupon such chairman shall have all the authority and power, and exercise in such vacant county all the jurisdiction conferred by any Act of Parliament upon the chairman thereof, and hold the office in the same manner as he holds the office in the county of which he is chairman.

The Lord Lieutenant may, if he shall think fit, with the consent of the Commissioners of Her Majesty's Treasury, fix an additional salary to be paid to such chairman in respect of his increased duties, and thereupon the same shall be payable to him, while he shall discharge such additional duties, in addition to his previous salary, out of moneys to be provided by Parliament for such purposes, notwithstanding any limitation of amount of salary by any Act of Parliament prescribed.

On any such appointment, Lord Lieutenant may fix times for holding sessions.

3. When any such appointment to the office of chairman of the quarter sessions of any vacant county shall have been made under the provisions of this Act, it shall be lawful for the Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland, notwithstanding anything contained in the principal Acts or any previous appointment in that behalf, thereupon and from time to time by order to appoint the times and places at which, and the districts or divisions for which, the general or quarter sessions of the peace and civil bill court or civil bill court only shall be held in and for the said respective counties.

Every such order shall be published in the Dublin Gazette, and shall thereupon become and be as valid and effectual for all purposes as if the same were enacted in this Act; but any such order may be rescinded or varied by any subsequent order made and published in like manner.

Power to Lord Lieutenant in Council to order business to be conducted at any town irrespective of divisions of counties.

4. It shall be lawful for the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, from time to time to order and direct that the whole of the civil or criminal or other business usually transacted at general or quarter sessions of the peace, or at civil bill or land sessions, including licensing business and the business of appeals from petty sessions, or any part or parts of such businesses respectively, may be conducted at any town or towns in any county, either having regard to or irrespective of the divisions for the time being existing in such county, and notwithstanding any enactments requiring any business to be done in any particular division or place, and also from time to time

to order and direct that any division may for the purposes of any specified business be merged in and form part of any other division, or be merged in the county at large whilst existing or continuing to exist for all other purposes as a separate division.

Any order under this section shall, after publication in the Dublin Gazette, have the like force and effect as if it had been enacted in this Act.

Power to vary classification.

5. Whereas the counties in Ireland are under the provisions of the principal Acts divided into classes for the purpose of regulating the salaries payable to the several chairmen of such counties, and it is expedient to authorise the alteration of such classification in certain cases: Therefore, the Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland, and with the concurrence of the Lord Chancellor of Ireland, and of the Commissioners of Her Majesty's Treasury, may from time to time by order declare that the name of any county shall no longer continue in the class in which by the principal Acts it is now placed for the purposes aforesaid, and may by such order declare that the name of such county shall for such purposes be deemed to be in any other class specified for such purpose in the principal Acts; and thereupon such county shall for such purposes be and continue to be one of the counties of the class mentioned in such order: Provided always, that except upon a vacancy in the office of chairman, no county shall be placed in a class lower than that in which it is at the time of the passing of this Act.

This Act and the principal Acts to be read as one Act.

6. This Act and the principal Acts, as amended by this Act, shall be read and construed as one Act.

(Ireland).

A

BILL

To amend the laws relating to the Jurisdiction of Chairmen of Quarter Sessions in Ireland.

(Prepared and brought in by Mr. Solicitor-General for Ireland and Sir Michael Hicks-Beach.)

Ordered, by The House of Commons, *to be Printed,* 5 *August* 1876.

[Bill 286.]

Under 1 *oz.*

A

B I L L

TO

Extend the provisions of the Exchequer and Audit Departments Act, 1866, to the Accounts of the Commissioners for the Government of the Royal Hospital at Chelsea. A.D. 1876.

WHEREAS by sections forty and forty-one of the Army Prize Act, 1832, it is enacted that the deputy treasurer of the Royal Hospital at Chelsea (in this Act referred to as Chelsea Hospital) shall lay annually before both Houses of Parliament an account in the form therein mentioned, and that the treasurer or deputy treasurer of the said Hospital shall render to the Commissioners thereof an account of their receipts and payments as therein mentioned, and the Commissioners are authorised to examine, audit, and finally pass the same: 2 & 3 Will. 4. c. 53.

And whereas in pursuance of the Paymaster General Act, 1835, all the powers and duties of the treasurer of Chelsea Hospital are now vested in Her Majesty's Paymaster General: 5 & 6 Will. 4. c. 35.

And whereas by section thirty-three of the Exchequer and Audit Departments Act, 1866, the Comptroller and Auditor General is directed to examine and audit, if required so to do by the Treasury, in accordance with regulations of the Treasury, the accounts therein mentioned; and it is expedient to extend the said enactment to the accounts of Chelsea Hospital: 29 & 30 Vict. c. 39.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The Exchequer and Audit Departments Act, 1866, shall apply to the accounts of the receipts and expenditure of the Commissioners of Chelsea Hospital for services other than those voted by Parliament in like manner as if those accounts were mentioned in section thirty-three of the said Act. The accounts, together with Extension of 29 & 30 Vict. c. 39. to accounts of Chelsea Hospital.

A.D. 1876.

the report of the Comptroller and Auditor General thereon, shall be laid before both Houses of Parliament within one month after he has audited the same.

Sections forty and forty-one of the Army Prize Act, 1832, are hereby repealed, as from the *thirty-first day of March one thousand eight hundred and seventy-six*, without prejudice to anything done or suffered under the said enactments; and the accounts of all receipts and expenses prior to the said date shall be laid before Parliament, and may be examined, audited, and passed, as if this Act had not passed.

Short title.

2. This Act may be cited as the Chelsea Hospital Act, 1876.

The Acts in the schedule to this Act are in this Act referred to by the short titles therein mentioned.

SCHEDULE.

Session and Chapter.	Title.	Short Title.
2 & 3 Will. 4. c. 53.	An Act for consolidating and amending the laws relating to the payment of army prize money.	The Army Prize Act, 1832.
5 & 6 Will. 4. c. 35.	An Act for consolidating the offices of Paymaster General, Paymaster, and Treasurer of Chelsea Hospital, Treasurer of the Navy, and Treasurer of the Ordnance.	The Paymaster General Act, 1835.

Accounts.

A

BILL

To extend the provisions of the Exchequer and Audit Departments Act, 1866, to the Accounts of the Commissioners for the Government of the Royal Hospital at Chelsea.

(*Prepared and brought in by Mr. Stephen Cave, Mr. William Henry Smith, and Mr. Stanley.*)

Ordered, by The House of Commons, *to be Printed,* 26 *April* 1876.

[Bill 133.]

Under 1 *oz.*

A

B I L L

TO

Explain the Law relating to Cheques or Drafts on Bankers. A.D. 1876.

WHEREAS doubts have arisen as to the interpretation to be placed on the Act of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter seventy-nine, viz., "An "Act to amend the law relating to cheques or drafts on bankers:"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

Construction of Act.

1. The Act of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter seventy-nine, is herein-after referred to as the principal Act; and this Act shall, so far as is consistent with the tenor thereof, be construed as one with the principal Act.

Payment of crossed cheques.

2. Any banker paying a cheque or draft crossed in the manner provided by the principal Act to any person or persons other than the banker with whose name such cheque shall be crossed, shall not by such payment discharge his liability to the payment of such cheque or draft according to the directions thereupon.

Holders of crossed cheques.

3. Any person holding a cheque crossed in the manner provided by the principal Act, and whether for valuable consideration or not, shall not be deemed to have and shall not have any better title thereto than the person from whom he received it.

Cheques on Bankers.

A

BILL

To explain the Law relating to Cheques or Drafts on Bankers.

(*Prepared and brought in by Mr. Hubbard, Mr. Goschen, and Mr. Twells.*)

Ordered, by The House of Commons, *to be Printed*, 15 *February* 1876.

[Bill 70.]

Under 1 *oz.*

Church Rates Abolition (Scotland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Definition of terms.
2. Compulsory payment abolished.
3. Special rates not to be affected. Special rates how to be applied.
4. Rate to be continued for paying money borrowed or due.
5. Rates made before passing of this Act.
6. Not to affect the powers of heritors or presbyteries.
7. Rates may be paid voluntarily.
8. Persons in default not to vote.
9. Trustees may be appointed. Election of trustees. Constitution of trust. Trustees may pay over funds to public bodies. Trust funds may be invested. Trustees to produce accounts.
10. Short title.

A

B I L L

TO

Abolish Church Rates in Scotland.

A.D. 1876.

WHEREAS it is desirable to assimilate the law respecting the compulsory levying of Church Rates within the different parts of the United Kingdom:

And whereas the levying of Church Rates in Ireland was abolished by an Act passed in the third and fourth year of His Majesty King William the Fourth, chapter thirty-seven:

And whereas the compulsory levying of Church Rates in England was abolished by an Act passed in the thirty-first and thirty-second year of Her Majesty, chapter one hundred and nine:

And whereas it is expedient that the compulsory payment of Church Rates in Scotland should likewise be abolished:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Definition of terms.

1. In this Act "Church Rate" shall mean any rate or assessment imposed or laid on for the building, rebuilding, enlargement, or repair of any parish church, or assistant church, or manse, or for providing or enlarging any glebe:

The expression "church" shall include all fencing of the site whereon the church is built:

The expression "manse" shall include offices, garden, and garden walls:

The expression "parish" shall include united parishes:

The expression "glebe" shall include grass glebe, or minister's grass:

"Ecclesiastical purposes" shall mean any of the purposes hereinbefore defined.

A.D. 1876.

Compulsory payment abolished.

2. From and after the passing of this Act no action shall be raised, or diligence used, to enforce or compel payment of any Church Rate or assessment made in any parish or place in Scotland.

Special rates not to be affected.

3. Where, in pursuance of any General or Local Act, any rate or assessment may be made and levied which is applicable partly to Church Rate purposes and partly to other purposes, such rate shall be made, levied, and applied for such last-mentioned purposes only, and, so far as it is applicable to such purposes, shall be deemed to be a separate rate, and not a Church Rate, and shall not be affected by this Act.

Special rates how to be applied.

Where, in pursuance of any Act of Parliament, a mixed fund, arising partly from rates affected by this Act, and partly from other sources, is directed to be applied to purposes some of which are Church Rate purposes, the portion of such fund which is derived from such other sources shall be henceforth primarily applicable to Church Rate purposes.

Rate to be continued for paying money borrowed or due.

4. In any parish where a sum of money is, at the time of the passing of this Act, due on the security of any Church Rate or assessment to be made or levied in such parish under the provisions of any Act of Parliament, such rate or assessment may still be made and levied, and the payment thereof enforced by action or diligence, as accords of law, pursuant to such provisions, for the purpose of paying off the money so due, or paying the money so ordered to be raised, and the costs incidental thereto, but not otherwise, until the same shall have been liquidated; and it shall be lawful for the sheriff, upon application by summary petition to that effect, to remit to any competent person to audit the accounts of the person or persons or bodies corporate having authority to make or levy such rate, in reference to the receipt and expenditure of the moneys levied under such Acts of Parliament.

Rates made before passing of this Act.

5. Any Church Rate, or any assessment in the nature of a Church Rate, made or becoming due and payable at any time before the passing of this Act, may be collected and recovered in the same way as if this Act had not been passed.

Not to affect the powers of heritors or presbyteries.

6. This Act shall not affect the powers of heritors or presbyteries, or the making, assessing, receiving, or otherwise dealing with any Church Rate or assessment, save in so far as relates to the recovery thereof.

Rates may be paid voluntarily.

7. It shall be lawful for all bodies corporate, trustees, tutors, curators, judicial factors, and other judicial officers, whether they

shall be in the occupation of any lands, houses, or tenements, or whether the same are in the occupation of the beneficiary, to pay, if they think fit, any Church Rate or assessment made in respect of such property, which, if this Act had not been passed, they would have been liable to pay, although the payment of the same may not be enforceable after the passing of this Act; and the same shall be allowed to them in any account to be rendered by them respectively.

Persons in default not to vote.

8. No person who makes default in paying the amount of any Church Rate or assessment for which he is assessed shall be entitled to inquire into or object to or vote in respect of the expenditure of the moneys arising from such Church Rate.

Trustees may be appointed.

9. A body of trustees may be appointed in any parish for the purpose of accepting by bequest, donation, contract, or otherwise, and of holding, any contributions which may be given to them for Church Rate purposes in the parish.

Election of trustees.

The trustees shall consist of the minister and of two heritors in the parish, to be chosen in the first instance, and also from time to time on any vacancy in the office occurring by death, incapacity, or resignation, the one by the patron, and the other by the presbytery of the bounds in which the parish is situated.

Constitution of trust.

The trustees shall be a body corporate, by the name of the church trustees of the parish to which they belong, having a perpetual succession and a common seal, with power to sue and be sued, and to hold and transfer property in their corporate name.

Trustees may pay over funds to public bodies.

The trustees may, from time to time, as circumstances may require, pay over to the heritors and kirk session of any parish, or in the case of any burgh to the town council or any other public body, any funds in their hands, to be applied by them either to the general Church Rate purposes of the parish or burgh, or to any other specific ecclesiastical purpose; and the funds so paid over may be applied to such purpose and to no other: Provided always, that no power shall be conferred on such heritors and kirk session, or town council or other public body, to take order with regard to the ecclesiastical purposes of the parish or burgh, further or otherwise than they are now by law entitled to do: Provided also, that due regard shall be had to the directions of the donors of funds contributed for any special Church Rate or other ecclesiastical purpose, and subject to the foresaid conditions.

Trust funds may be invested.

The trustees may invest in such securities as trustees may lawfully hold any funds in their hands, and accumulate the income thereof, or otherwise deal with such funds as they think expedient, subject to the provisions of this Act.

A.D. 1876.

Trustees to produce accounts.

The minister shall be the chairman of the trustees.

The trustees shall once at the least in every year lay before the heritors and kirk session an account of their receipts and expenditure during the preceding year, and of the mode in which such receipts have been derived, and expenditure incurred, together with a statement of the amount, if any, of funds remaining in their hands at the date of such account.

Short title.

10. This Act may be cited as the "Compulsory Church Rates Abolition (Scotland) Act, 1876."

(Scotland).

A

B I L L

To abolish Church Rates in Scotland.

(Prepared and brought in by Mr. M'Laren, Dr. Cameron, Mr. Baxter, Mr. Trevelyan, Mr. Grieve, Mr. Laing, and Sir George Balfour.)

Ordered, by the House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 25.]

Under 1 *oz.*

Civil Bill Courts (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clauses.

1. Extent.
2. Short title.
3. Commencement of Act.
4. Short title of 14 & 15 Vict. c. 57.
5. Construction of Act.
6. Interpretation.

PART I.

JURISDICTION OF CIVIL BILL COURTS.

Chancery Jurisdiction.

7. Civil bill courts shall have the power of the Court of Chancery in certain matters.
8. Powers and duties of chairman and officers.
9. Power to the Lord Chancellor, &c. to order suits to be transferred to the Court of Chancery.
10. Power to transfer a suit commenced in Chancery to the civil bill court in certain cases.
11. Where the amount of the subject-matter of a suit exceeds the limits of the jurisdiction of the civil bill court, the suit to be transferred to the Court of Chancery.
12. Power to order a legacy to which an infant or person beyond seas is entitled to be paid into the Court of Chancery.
13. How money paid into a civil bill court in equitable proceedings is to be deposited.
14. In what courts proceedings shall be taken.
15. In administering estates court may partition instead of selling and converting lands.
16. Decrees and orders may be varied or rescinded on re-hearing.

Clauses.

17. Appeal.
18. Chairman may state a case for decision of a superior court.
19. Power to Chancellor to grant injunctions.
20. Power of Lord Chancellor to distribute business.

PART II.

Jurisdiction in Matters and Causes Testamentary.

21. In certain matters and causes testamentary judge of the civil bill court to have all the jurisdiction of the Court of Probate in Ireland.
22. Affidavit to be conclusive to authorise the jurisdiction of the civil bill court.
23. Power to grant immediate administration in certain cases.
24. Grants by chairmen to be deemed grants by Court of Probate.
25. Clerk of the peace to transmit will to the district registrar after grant.
26. Bond to be given by the person obtaining letters of administration.
27. Power of judge to cause seals of the court to be provided.
28. Penalty on forging or counterfeiting seals or signatures of the clerk of the peace.
29. Proceedings under this part of the said Act not to be taken unless authorised by Order in Council.

PART III.

As to enforcing Decrees and making Rules.

30. Power to fix places where equitable and testamentary jurisdiction to be exercised.
31. Proceedings in equity may be according to the rules to be framed.

PART IV.

Extension of existing Jurisdiction.

32. Jurisdiction at law of civil bill courts to be extended.
33. Jurisdiction in remitted cases.

Clauses.

34. Extension of possessory jurisdiction given by section 79 of 14 & 15 Vict. c. 57.
35. Act of 37 & 38 Vict. c. 66. explained and amended.
36. By consent of parties civil bill court may try any case except crim. con.
37. Appeal.
38. Costs to be discretionary in certain cases.

PART V.

General Provisions.

39. Judgment by default.
40. Power to enforce decrees or orders of civil bill courts.
41. Decrees and orders of the civil bill courts to be registered.
42. Moneys in hands of sheriff shall be taken in execution.
43. Cross decrees may be set off against each other.
44. The bankruptcy of the plaintiff after action brought shall not cause the action to abate, if the assignees elect to continue it.
45. Acknowledgments of deeds by married women may be received by chairman.
46. Chairman may appoint a next friend or guardian ad litem to act for an infant. Chairman may direct money belonging to an infant to be paid into bank.
47. Where the court has no jurisdiction to try the cause chairman should strike it out, but may give costs.
48. Provisions of Civil Bill Acts as to jurors and witnesses extended to this Act.
49. Affidavits, &c. may be sworn and taken before commissioners in Chancery, clerk of peace, or justice.
50. Appointment of temporary chairman on death or resignation of chairman during sessions.
51. Power to Lord Lieutenant in Council to order business to be conducted at any town irrespective of divisions of counties.
52. Form of recognizance in appeal from petty sessions.
53. Estreating of recognizances.
54. No conviction to be quashed on the ground of an error in the complaint.

Clauses.
55. No conviction to be quashed on ground of trivial mistake.
56. Exceptions need not be negatived.
57. Power to make rules and orders.
58. Jurisdiction extended to recorders of Dublin and Cork.

Pensions, Salaries, and Fees.

59. Increase of salaries.
60. Pensions of chairmen.
61. Provision as to existing recorder of city of Dublin.
62. Recorder of Galway.
63. Salary of future recorders of city of Dublin.
64. Pensions for future recorders of the city of Dublin.
65. Fixing and collection of fees.
66. Fees for clerks of peace.
67. Qualification of clerk of peace.
68. Deputies of clerks of the peace appointed before passing of Act.
69. Power to frame a scale of costs and charges.
70. Like power as to courts of recorders of boroughs.

PART VI.

Union of Counties.

71. On vacancy of chairmanship Lord Lieutenant in Council may unite counties under one chairman.
72. Power to unite offices of recorder of city, and chairman of county, Dublin.
73. On any such union Lord Lieutenant in Council may alter times for holding sessions, &c.
74. Power to vary classification.
75. Certain chairmen not to practise.

A

B I L L

TO

Extend the Jurisdiction of the Courts for hearing Civil Bill Causes in Ireland, and for other purposes relating thereto. A.D. 1876.

WHEREAS it is expedient to extend the jurisdiction of the courts for hearing civil bill causes in Ireland, and to amend the laws relating to the said courts and to the court of quarter sessions in Ireland, and to make provision for the union of counties for the purpose of criminal and civil jurisdiction in manner by this Act prescribed:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Extent. **1.** This Act shall extend and apply to Ireland only.

Short title. **2.** This Act may be cited for all purposes as "The Civil Bill Courts (Ireland) Act, 1876."

Commencement of Act. **3.** Parts I., II., and III. of this Act shall come into operation on the *first day of January one thousand eight hundred and seventy-seven*, and Parts IV., V., and VI. shall come into operation upon the *passing of this Act*.

Short title of 14 & 15 Vict. c. 57. **4.** The Act of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter fifty-seven, may for all purposes be cited or referred to as "The Civil Bill Courts (Ireland) Act, 1851."

Construction of Act. **5.** The Civil Bill Courts (Ireland) Act, 1851, and the several Acts amending or altering the same respectively, as amended by this Act, and this Act, shall be read and construed as one Act.

Interpretation. **6.** The words "annual value," when expressed in this Act of any real or freehold estate or other interest in lands, shall mean the annual value at which such lands are, at the time of the suit or act hereby authorised being instituted or done, valued under the Acts in force for the time being for the valuation of rateable property in Ireland, or in case the same or any part thereof be not valued separately, the annual value of the same or of such part thereof,

A.D. 1876.

ascertained according to the principles of valuation prescribed by the said Acts.

The expression "Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them.

PART I.

JURISDICTION OF CIVIL BILL COURTS.

Chancery Jurisdiction.

Civil bill courts shall have the power of the Court of Chancery in certain matters.

7. The courts for hearing civil bill causes for the several counties in Ireland shall, in addition to the jurisdiction now possessed by them, have and exercise all the power and authority of the High Court of Chancery in Ireland in the suits and matters herein-after mentioned; that is to say,

(*a.*) In all suits by creditors, legatees (whether specific, pecuniary, or residuary), devisees (whether in trust or otherwise), heirs at law, or next of kin, in which the estate against or for an account or administration of which the demand may be made, so far as it is personal, shall not exceed in amount or value the sum of *five hundred pounds*, and so far as it is of the nature of realty, the annual value of the same, whether real estate or chattels real (if any), shall not exceed *thirty pounds:*

(*b.*) In all suits for the execution of trusts in which the trust estate or fund, so far as it is personal, shall not exceed in amount or value the sum of *five hundred pounds*, and so far as it is of the nature of realty, the annual value of the same, whether real estate or chattels real, shall not exceed *thirty pounds:*

(*c.*) In all suits for sale or redemption when the mortgage charge or lien shall not exceed in amount *five hundred pounds:*

(*d.*) In all suits for the specific performance of any agreement for the sale, purchase, or lease of any property, or for the reforming, delivering up, or cancelling any such agreement where, in the case of a sale or purchase, the purchase money shall not exceed *five hundred pounds*, and in the case of a lease the annual value of the land shall not exceed *thirty pounds:*

(*e.*) In all proceedings under the Married Women's Property Act, 1870, or under any other Act or Acts which may hereafter be passed to extend or amend the same, where the property of the married woman shall not exceed in amount or value the sum of *five hundred pounds;* this

jurisdiction to be in addition to any already existing under the said Act:

(*f.*) In all suits for the taking of any partnership account or for the dissolution or winding up of any partnership, in which the whole property, stock, and credits of such partnership shall not exceed in amount or value the sum of *five hundred pounds:*

(*g.*) In all proceedings for partition where the annual value of the land to which the suit relates shall not exceed *thirty pounds:*

(*h.*) In all proceedings by a landlord against a tenant to stay waste, whether an account be prayed or not, where the annual value of the holding to which the proceedings shall refer shall not exceed *thirty pounds:*

(*i.*) In all proceedings under the Trustee Relief Acts, or under the Trustee Acts, or under any of such Acts, in which the trust estate or fund to which the proceeding relates shall, so far as it is personal property, not exceed in amount or value *five hundred pounds*, and so far as it is of the nature of realty, the annual value of the same, whether real estate or chattels real, shall not exceed *thirty pounds:*

(*k.*) In all proceedings relating to the maintenance or advancement or for the protection of the property of infants when the property of the infants (so far as it is personal) shall not exceed in amount or value the sum of *five hundred pounds*, and so far as it is of the nature of realty, whether real estate or chattels real, shall not exceed in annual value *thirty pounds:*

(*l.*) In all proceedings for orders in the nature of injunctions where the same are requisite for granting relief in any matter in which jurisdiction is by this part of this Act given to the civil bill courts, or for stay of proceedings at law to recover any debt provable under a decree for the administration of an estate made by the court to which the application for the order to stay proceedings is made.

Powers and duties of chairman and officers.

8. In all such suits and matters as aforesaid, every chairman in addition to the powers and authorities now possessed by him, shall, for the purposes of this Act, have all the powers and authorities of a judge of the High Court of Chancery; and the clerk of the peace and all officers of the civil bill courts shall discharge such duties as may be directed by any rules or orders to be framed as in Part V. of this Act provided.

Power to the Lord Chancellor, &c. to order suits to be trans-

9. The Lord Chancellor, on the application at chambers of any party to any suit or matter in respect to which jurisdiction is by this part of this Act conferred pending in any civil bill court, shall

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ferred to the Court of Chancery.

have power then and there, or if he shall think fit, after hearing a summons served upon the other party or parties, to transfer the same to the Court of Chancery, upon such terms (if any) as to security for costs or otherwise as he may think fit.

Power to transfer a suit commenced in Chancery to the civil bill court in certain cases.

10. Where any suit or proceeding shall be pending in the High Court of Chancery, which suit or proceeding might have been commenced in a civil bill court, it shall be lawful for any of the parties thereto to apply to the judge to whom the said suit or proceedings shall be attached to have the same transferred to the civil bill court, and such judge shall have power upon such application, or without such application, if he shall see fit, to make an order for such transfer, and thereupon such suit or proceedings shall be carried on in the civil bill court to which the same shall be ordered to be transferred; and the parties thereto shall have the same right of appeal that they would have had, had the said suit or proceeding been commenced in such civil bill court: Provided that it shall be in the power of the judge to retain such suit if it shall appear to him for any reason more expedient to do so.

Where the amount of the subject-matter of a suit exceeds the limits of the jurisdiction of the civil bill court, the suit to be transferred to the Court of Chancery.

11. If during the progress of any suit or matter it shall be made to appear to the chairman that the subject-matter exceeds the limit in point of amount to which the jurisdiction of the chairman is by this part of this Act limited, it shall not affect the validity of any order or decree already made; but it shall be the duty of the chairman to direct the said suit or matter to be transferred to the Lord Chancellor, who shall have power to regulate the whole of the procedure in the said suit or matter when so transferred, and who may either retain the said cause within his own jurisdiction for his own decision, or if it shall appear to him for the interest of justice that the same should proceed in the civil bill court where it had been commenced, may so direct, and his order shall thereupon confer jurisdiction on such court to proceed therein.

Power to order a legacy to which an infant or person beyond seas is entitled to be paid into the Court of Chancery.

12. Any legacy or sum of money to which any person who is an infant or absent beyond seas may be found or declared to be entitled by any chairman in any suit or matter, may be ordered by him to be paid to the Accountant General of the Court of Chancery, in accordance with the provisions of section thirty-three of an Act passed in the session of Parliament held in the fifty-fourth year of the reign of His late Majesty King George the Third, chapter ninety-two; and the person ordered to pay the same shall within such time as the chairman shall direct, produce to the clerk of the peace of the county the certificate of the Accountant General of the payment of such money; and if default shall be made in such payment, the chairman may direct a warrant of execution to issue to the high sheriff of the county or city in which such civil bill

court is held, who, by such warrant, shall be empowered to levy or cause to be levied by distress and sale of the goods and chattels of such person a sum of money equal in amount to the sum he was ordered to pay to the said Accountant General and to the costs incurred by reason of such default, and the sum so levied shall be paid to and be receivable by the said Accountant General under the direction of the court; and all amounts so paid or transferred into the Court of Chancery, with any dividends thereon, shall be paid or transferred to the person or persons entitled thereto, or otherwise applied for his or their benefit, on application by summons to the Lord Chancellor while sitting at chambers.

How money paid into a civil bill court in equitable proceedings is to be deposited.

13. The Lord Chancellor, with the concurrence of the chairman of any county, shall have power from time to time to order for such county, at what places and in what banks, including post office savings banks, moneys ordered by the civil bill court to be paid into court or lodged by trustees under the Trustee Relief Acts shall be deposited; and such deposit, if in a post office savings bank, may be made without restriction as to amount, and without the declaration required of a depositor; and to direct in what manner and according to what rules or regulations such deposits are to be made, and no moneys when deposited shall be drawn or paid out except upon an order signed by the judge of the civil bill court under an order of which the money was so deposited, or by the Lord Chancellor.

In what courts proceedings shall be taken.

14. Proceedings under the authority of this part of this Act shall be taken in such civil bill courts as are herein-after mentioned; that is to say,

(*a.*) Proceedings which relate to the sale, redemption, or partition of any lands, tenements, or hereditaments, or which pray an injunction to stay waste upon lands, shall be taken in the civil bill court within the jurisdiction of which such lands, tenements, or hereditaments are situate; and where the said lands, tenements, or hereditaments are situate within the jurisdiction of two or more civil bill courts, then in any of such civil bill courts:

(*b.*) Proceedings under the Married Women's Property Act, 1870, or any other Act or Acts which may hereafter be passed to alter or amend the same, shall be taken in the civil bill court within the jurisdiction of which the person or persons making the application, or any of such persons, reside or resides:

(*c.*) Proceedings for the administration of the assets of a deceased person shall be taken in the civil bill court within the

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jurisdiction of which the deceased person had his last place of abode or place of business in Ireland, or in which the executors or administrators, or any of them, shall have their or his places or place of abode:

(*d.*) Proceedings in partnership cases shall be taken in the civil bill court within the jurisdiction of which the partnership business was or is carried on, or in which the defendants, or any of them, reside or resides, or carry or carries on business, or have or has their or his place of business:

(*e.*) Proceedings for the specific performance of any agreement for the sale, purchase, or lease of any property, or for the reforming, cancelling, or delivering up of any such agreement or lease, shall be taken in the civil bill court within the jurisdiction of which the defendants, or any of them, reside or resides, or have or has a place of business, or in which such property shall be situate, and where the said property shall be situate within the jurisdiction of two or more civil bill courts, then in any of such civil bill courts:

(*f.*) Proceedings under the Trustee Relief Acts, or under the Trustee Acts, or any of such Acts, shall be taken in the civil bill court within the jurisdiction of which the person or persons making the application, or any of them, resides or reside:

(*g.*) Proceedings relating to infants shall be taken in the civil bill court within the jurisdiction of which the infants reside:

(*h.*) Proceedings which are not otherwise provided for shall be taken or instituted in the civil bill court within the jurisdiction of which the defendants, or any of them, reside or carry on business:

Provided that if during the progress of any such suit, matter, or proceeding it appears to the court that the same may be more conveniently prosecuted in some other civil bill court, it shall be competent for the court, with the consent of the Lord Chancellor, to transfer the same to such other civil bill court, and thereupon the suit, matter, or proceeding shall proceed in such other civil bill court.

In administering estates court may partition instead of selling and converting lands.

15. In administering the estate of a deceased person the judge of the civil bill court shall not be bound, for the purpose of distribution of the landed property, whether freehold estate or chattels real, to sell and convert same, but may partition the same among the persons entitled to shares of such estate, and in order to enable such partition to be made may give a personal decree against such persons, or any of them, for any excess in the value of the part or parts of the same so decreed to them, or any of them, on partition above such shares or share of such persons or person. Provided

always, that no such partition as aforesaid shall be made without the consent in writing of the landlord or his agent duly authorised in writing in any case where the land to be partitioned is held subject to any agreement or condition restraining or prohibiting subdivision.

An administration suit may be instituted at any time after the death of the testator or intestate.

Decrees and orders may be varied or rescinded on re-hearing.

16. Any decree or order in a proceeding under this part of this Act may be varied or rescinded on a re-hearing in any case in which the chairman, upon special grounds, shall think such re-hearing necessary, and on such terms as to costs or otherwise as he shall think fit; but no such re-hearing shall be allowed after the expiration of three years from the making of the decree or order so sought to be varied or rescinded.

Appeal.

17. If any party to a suit or matter in respect to which jurisdiction is by this part of this Act conferred shall be dissatisfied with any decree, dismiss, order, or direction made therein by a chairman, such party may, within one month after the same shall have been made, appeal therefrom to the Lord Chancellor, provided that such party shall within fourteen days after such decree, dismiss, order, or direction shall have been so made or given, give notice of appeal to the other party or his solicitor, and also deposit with the clerk of the peace the sum of *ten pounds* as security for the costs of such appeal, and the Lord Chancellor may make such final or other decree or order as he shall think fit, and may also make such order with respect to the costs of the said appeal as he may think proper; and such order shall be without further appeal and final: Provided that nothing herein contained shall authorise any party to appeal against the decision of a civil bill court given upon any question as to the value of any real or personal property for the purpose of determining the question of the jurisdiction of the court under this part of this Act, nor to appeal against the decision of a civil bill court on the ground that the proceedings might or should have been taken in any other civil bill court.

Chairman may state a case for decision of a superior court.

18. In any case within the jurisdiction of a chairman under this part of this Act, such chairman may state a case for the decision of the Lord Chancellor, who shall thereupon hear and determine the same, and such decision shall be final.

Power to Chancellor to grant injunctions.

19. During the periods when the chairman of a county is not sitting as judge at any place within such county, it shall be lawful to apply to the Lord Chancellor for an injunction in suits commenced in the civil bill court of such county, who shall have the

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same power to grant an injunction as he would have had if the suit had been originally instituted and continued in the Court of Chancery; and the granting of any such injunction shall not operate to remove such suit from such civil bill court, but the same, if continued, shall proceed in such civil bill court, unless the Lord Chancellor shall otherwise direct.

Power of Lord Chancellor to distribute business.

20. The Lord Chancellor may, if he shall think fit, by general order or otherwise provide for the distribution amongst the several judges of the High Court of Chancery of all the appeals, suits, proceedings, and matters to arise under the provisions of this part of this Act, in or over which jurisdiction is by this part of this Act conferred upon him, and thereupon each and every of the aforesaid judges shall have the same jurisdiction, power, authority, and discretion in reference to such appeal, suit, proceeding, or matter as is by this part of this Act conferred upon the Lord Chancellor.

PART II.

Jurisdiction in Matters and Causes Testamentary.

In certain matters and causes testamentary judge of the civil bill court to have all the jurisdiction of the Court of Probate in Ireland.

21. When it appears by affidavit to the satisfaction of the chairman of any county that the testator or intestate in respect of whose estate a grant or revocation of a grant of probate, or letters of administration is applied for, had at the time of his death, his fixed place of abode in such county, and that the personal estate of such deceased person, in respect of which a grant or revocation of a grant of probate or letters of administration is applied for, did not at the time of his decease exceed in value the sum of *five hundred pounds*, exclusive of what the deceased may have been entitled to as a trustee and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, and that the annual value of the landed estate, whether freehold or chattels real, which the deceased at the time of his death was seized of or beneficially entitled to (if any) did not exceed *thirty pounds;* the chairman of such county shall in such cases, in addition to the jurisdiction now possessed by him, have and exercise all the jurisdiction, powers, and authorities of Her Majesty's Court of Probate in Ireland, and of the judge thereof for the time being, including the power of directing issues to be tried before a jury; provided, however, that no chairman shall have power to direct any issue in any matter or cause to be tried elsewhere, or in any other manner than that in use in his own court.

All the provisions of the Probates and Letters of Administration Act (Ireland), 1857, or any Act amending the same, which apply to the exercise of contentious testamentary jurisdiction in the

civil bill courts conferred by such Acts, and to appeals in such cases, shall apply to the extended jurisdiction by this part of this Act conferred.

Affidavit to be conclusive to authorise the jurisdiction of the civil bill court.

22. The affidavit as to the place of abode and state of the property of a testator or intestate, which is to give jurisdiction to the chairman upon any such application as aforesaid, shall (except as herein-after is provided) be conclusive for the purpose of authorising such jurisdiction, and for the grant or revocation of probate or letters of administration, and no such grant of probate or administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the jurisdiction of the chairman, or by reason that the personal estate sworn to be of or under the value of *five hundred pounds* did in fact exceed that value, or that the annual value of the landed estate, whether freehold or chattels real, of or to which the testator or intestate was seised or entitled beneficially at the time of his death exceeded *thirty pounds:* Provided that whenever it shall be shown to the satisfaction of the chairman before whom any such application is pending, that the place of abode or state of the property of the testator or intestate in respect of whose will or estate an application may have been made for grant or revocation of probate or administration has not been correctly stated in the affidavit, or if correctly stated would not have authorised him to exercise such jurisdiction, he shall stay all further proceedings in his court in the matter, leaving any party to apply to Her Majesty's Court of Probate in Ireland for such grant or revocation, and such chairman may make such order as to the costs of the proceedings before him as he may consider to be just.

Power to grant immediate administration in certain cases.

23. The chairman on being satisfied of the death of any party against whose assets any claim is made in his civil bill court, and that there is no legal personal representative of such person, and that the personal estate of such deceased person did not at the time of his decease exceed in value the sum of *five hundred pounds*, exclusive of what the deceased may have been entitled to as a trustee and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, and that the annual value of the real or freehold estate which the deceased at the time of his death was seised of or beneficially entitled to (if any) did not exceed thirty pounds; and that it is expedient that a legal representative should be raised to such deceased person may, by order in writing under his hand appoint such person as such chairman shall consider proper

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to be the administrator of such deceased person, on the person so appointed lodging with the clerk of the peace such sum as the chairman shall consider sufficient to represent the probable amount of the probate duty payable in respect of the assets of such deceased person; and the person so appointed shall for all purposes represent such deceased person in the same manner as if such deceased person had died intestate, and administration had been duly granted to the person so appointed of the personal estate and effects of such deceased person under the provisions of this part of this Act.

Grants by chairmen to be deemed grants by Court of Probate.

24. All grants of probate and letters of administration granted by any chairman under the authority of this part of this Act shall be deemed grants by the Court of Probate, and shall have effect over the personal estate and chattels real of the deceased in all parts of Ireland accordingly.

Clerk of the peace to transmit will to the district registrar after grant.

25. The clerk of the peace of any county after every grant of probate or letters of administration with a will annexed by the chairman of such county shall transmit the will, of which such probate or letters of administration may have been granted, to the district registrar of the district in which such grant has been made, and such registrar shall preserve all original wills in the public registry of the district, subject to such regulations as the judge of the Court of Probate may from time to time make, relating to the preservation thereof, and the convenient inspection of the same; and in every proceeding before any chairman an office copy of any will or testamentary document lodged in such registry shall, upon proof of the signature of the district registrar certifying the same to be a true copy of such will or testamentary document, be admitted as evidence of the contents thereof.

Bond to be given by the person obtaining letters of administration.

26. Every person to whom any grant of administration shall be committed shall give a bond to the chairman having jurisdiction in the place in which such administration has been granted, to enure for the benefit of such chairman for the time being with one or more surety or sureties conditioned for duly collecting and administering the personal estate of the deceased, which bond shall be in the form directed by any general order to be from time to time made under the authority of this Act.

Such bond shall be in a penalty of double the amount under which the estate and effects of the deceased shall be sworn, unless such chairman shall in any case think fit to direct the same to be reduced, in which case it shall be lawful for him so to do; and he may also direct that two or more bonds shall be given, so as to limit the liability of any surety to such amount as he shall think reasonable.

Such chairman may on any application being made to him, and on being satisfied that the condition of any such bond has been broken, order the clerk of the peace to assign the same by indorsement thereon to some person to be named in such order, and upon such indorsement being made such person, his executors or administrators, shall be entitled to sue on the said bond in his own name, both at law and in equity, as if the same had been originally given to him instead of to such chairman, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the said bond.

Power of judge to cause seals of the court to be provided.

27. The Lord Chancellor may cause seals to be made for the use of the respective civil bill courts in matters and causes testamentary, and may cause the same from time to time to be broken, altered, and renewed at his discretion; and all probates, letters of administration, orders, and other instruments and exemplifications, and copies thereof respectively purporting to be sealed with any seal of a civil bill court, shall in all parts of the United Kingdom be received in evidence without further proof thereof.

Penalty on forging or counterfeiting seals or signatures of the clerk of the peace.

28. If any person shall forge the signature of the clerk of the peace to any probate or letters of administration, or forge any seal of a civil bill court, or tender in evidence any document with a false or counterfeit signature of such clerk of the peace, or with a false or counterfeit seal, such person shall be guilty of forgery, and shall be liable on conviction to imprisonment for any term not exceeding *three years* with or without hard labour.

Proceedings under this part of this Act not to be taken unless authorised by Order in Council.

29. No proceedings under the authority of this part of this Act shall be taken in any county unless or until the Lord Lieutenant shall, by and with the advice and consent of the Privy Council in Ireland by order to be published in the Dublin Gazette, declare that such proceedings under the authority of this part of this Act as shall be specified in such order may from and after the date of such order be taken in such county, and thereafter such proceedings may be taken, and all the preceding provisions of this part of this Act shall apply to such proceedings.

PART III.

As to enforcing Decrees and making Rules.

Power to fix places where equitable and testa-

30. The jurisdiction conferred by Parts I. and II. of this Act shall be exercised in the chief town of each county, and, if it

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mentary jurisdiction to be exercised.

shall seem expedient, also in such other town or towns within such county as the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, shall by order direct.

Proceedings in equity may be according to the rules to be framed.

31. Any proceeding taken in the civil bill courts under the preceding provisions of this Act shall be commenced by summons, or such other form, and generally be conducted in such manner as shall be prescribed by the rules and orders to be made as by this Act provided, and such rules may direct in what manner money or securities are to be lodged by trustees under the Trustee Relief Act.

PART IV.

Extension of existing Jurisdiction.

Jurisdiction at law of civil bill courts to be extended.

32. The jurisdiction given to the civil bill courts in actions at law by the thirty-fifth section of the Civil Bill Courts (Ireland) Act, 1851, shall be extended so as to authorise the recovery of any debt, damages, or demand not exceeding the sum of *fifty pounds*, including any debt or demand not exceeding the said sum of fifty pounds, which is the whole or part of the unliquidated balance of a partnership account, as well as any debt, damage, or demand, which consists of a balance not exceeding the said sum of fifty pounds, after an admitted set off of any debt or demand claimed or recoverable by the defendant from the plaintiff.

Jurisdiction in remitted cases.

33. Whenever any action shall be remitted by one of the superior courts or by a judge thereof to a civil bill court, under the provisions of the sixth section of the Common Law Procedure Amendment (Ireland) Act, 1870, the jurisdiction of the civil bill court shall not be restricted to the sum of fifty pounds, but shall extend to the amount the plaintiff might have recovered in such action if the same had not been remitted; and where the damages claimed in such action shall exceed the sum of twenty pounds, either of the parties thereto shall have the same powers, by the same means and subject to the same conditions and restrictions as to time, and otherwise to require a jury to be summoned to try such action, as if the same had been commenced by civil bill in the said civil bill court, and thereupon the said jury shall be summoned and such action tried in the manner provided by the one hundredth section of the Civil Bill Courts (Ireland) Act, 1851, in the case of actions commenced by civil bill; and if the plaintiff in such action shall

have omitted or refused to lodge the order of the said superior court or judge, remitting the same, together with the summons and plaint, with the clerk of the peace, as by the said order directed, the defendant may, at any time during the sessions named in such order, lodge with the clerk of the peace certified copies of the said order and of the said summons and plaint for the purpose of having such action dismissed by the chairman of such civil bill court, and thereupon the said chairman shall have the same power, jurisdiction, and authority to dismiss and award costs to the defendant as if the plaintiff had duly lodged with the clerk of the peace the said order and summons and plaint, and had failed to proceed thereon at the said sessions.

Extension of possessory jurisdiction given by s. 79 of 14 & 15 Vict. c. 57.

34. In the seventy-ninth section of the Civil Bill Courts (Ireland) Act, 1851, the words "*fifty pounds*" shall be substituted for the words "twenty pounds" wherever the same occur in such section, and the jurisdiction conferred on the civil bill courts by the said enactment shall be extended accordingly.

Act of 37 & 38 Vict. c. 66. explained and amended.

35. Whereas doubts have arisen as to the construction of the Act of the session of Parliament held in the thirty-seventh and thirty-eighth years of the reign of Her present Majesty, chapter sixty-six, it is hereby declared that the words "action in which the "title to any corporeal or incorporeal hereditaments shall come in "question" in the said Act contained include an action of ejectment upon the title. And the provisions of the said Act shall, in cases where there is no separate valuation under the Acts relating to the valuation of rateable property in Ireland of the lands in dispute, or in, through, over, or in respect of which an easement is claimed, be applicable if the annual value of such lands ascertained according to the principles of valuation prescribed by the said Acts shall not exceed *twenty pounds* a year.

By consent of parties civil bill court may try any case except crim. con.

36. In all cases whatsoever in which actions may be brought in any superior court of common law (excepting, however, the case of criminal conversation, but including actions for breach of promise of marriage, libel, and slander), if both parties agree by a memorandum signed by them or their respective attorneys, that any civil bill court named in such memorandum shall try such action, such civil bill court shall have jurisdiction to try the same, and make such decree therein as shall appear just. Such action shall be brought by civil bill, and the proceedings therein shall be the same as in cases within the ordinary jurisdiction of the court; save that there shall be no restriction as to the property or amount which may be recovered therein.

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Appeal.

37. In any case in which a party shall be dissatisfied with the judgment or decree of the chairman in any proceeding under the jurisdiction conferred by this part of this Act, including jurisdiction by consent as herein provided, or under the jurisdiction conferred by the Common Law Procedure Amendment Act (Ireland), 1870, as amended by this Act, it shall be lawful for such party to appeal against such judgment or decree in like manner, and upon the like terms and stipulations as appeals are allowed to be brought under the Civil Bill Courts (Ireland) Act, 1851, or any statutory amendment thereof.

Costs to be discretionary in certain cases.

38. Costs shall be in the discretion of the chairman in the following cases:

(1.) Whenever there shall be a proceeding by civil bill to recover damages for trespass by animals, in respect of which provision is made by the Summary Jurisdiction Act (Ireland), 1851; and also

(2.) Whenever there shall be a proceeding by civil bill to recover a debt which might have been sued for under the provisions of the Act of the twenty-second year of the reign of Her present Majesty, chapter fourteen, section five, had such proceeding been taken within the twelve months limited by the said Act.

PART V.

GENERAL PROVISIONS.

Judgment by default.

39. Upon the hearing of any civil bill process for debts or liquidated demands in money, the plaintiff may be permitted to prove his case by affidavit: Provided always, that if the chairman be dissatisfied with such proof, or if a defence shall have been entered to such civil bill, the said chairman shall, upon such terms as to costs as to him shall seem just, adjourn such hearing either to the next sessions or to any subsequent day during the same sessions, in order that the plaintiff may prove his case in manner heretofore necessary in such civil bill court.

Power to enforce decrees or orders of civil bill courts.

40. For the due execution of any judgment, decree, or order made under the authority of this Act, or of the rules and orders to be framed as herein-after provided, the civil bill court shall have power to order and the clerk of the peace upon such order shall have authority to seal and issue, and the high sheriff or under-sheriff shall have power and be bound to execute, any writ or warrant of execution,

attachment, or process of execution for carrying into effect any judgment, decree, or order of the civil bill court, and such writs, warrants, and processes shall be in the form and executed at the time and in the manner to be set forth in the rules and orders to be framed as herein-after provided.

Decrees and orders of the civil bill courts to be registered.

41. Such of the decrees or orders of the civil bill courts as may be directed by any rule or order made as hereafter provided shall be registered with the registrar of judgments and decrees in Dublin in such manner as may be directed by any general rule or order of the Lord Chancellor.

Moneys in hands of sheriff shall be taken in execution.

42. Any moneys the proceeds of the execution of any writ of Fieri facias or civil bill decree belonging to any judgment creditor (including therein the plaintiff of any civil bill decree) shall, while it shall continue in the hands of the sheriff, be liable to be seized and taken in execution under any writ of Fieri facias or civil bill decree against the goods and chattels of such judgment creditor which may be delivered to such sheriff for the purpose of execution: Provided always, that nothing herein contained shall postpone or prejudice the right of any person who may have previously obtained an order in any court of law or equity for the attachment or payment of such moneys; and provided further, that the sheriff shall be entitled to his poundage fees on the sum so seized and taken in execution.

Cross decrees may be set off against each other.

43. If there shall be cross decrees made in any civil bill court at the same sessions, or cross decrees, both of which are unexecuted or only partially executed, made at different sessions between the same parties, it shall be lawful for the chairman to direct that a decree shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered by the clerk of the peace in his court book for the smaller sum, and, if both sums shall be equal, satisfaction shall be entered in like manner for both sums, and in such event no decree shall be issued in either case.

The bankruptcy of the plaintiff after action brought shall not cause the action to abate, if the assignees elect to continue it.

44. The bankruptcy of the plaintiff in any action or suit in a civil bill court which the assignees might maintain for the benefit of the creditors shall not cause an abatement of such action or suit, if the assignees shall elect to continue the same, and to give such security for the costs thereof as the chairman may direct, or deposit with the clerk of the peace a sum sufficient to cover the same within such reasonable time as the chairman shall order; but the hearing of the cause may be adjourned until such

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election is made, and in case the assignees do not elect to continue the action, and to give such security within the time limited by the order, the defendant may avail himself of the bankruptcy as a defence to the action or suit.

Acknowledgments of deeds by married women may be received by chairman.

45. Any acknowledgment to be made by any married woman of any deed under an Act passed in the session of Parliament held in the fourth and fifth years of the reign of His late Majesty King William the Fourth, chapter ninety-two, may be received by the chairman or judge of any civil bill court, in like manner, and subject to the like provisions as such acknowledgments may be received by a judge of a superior court.

Chairman may appoint a next friend or guardian ad litem to act for an infant.

Chairman may direct money belonging to an infant to be paid into bank.

46. Where any action or suit at law or in equity is brought on behalf of or against any infant it shall be lawful for the chairman, by any order in writing under his hand, to appoint a next friend or guardian ad litem, to act for or on behalf of such infant, or to change any such next friend or guardian ad litem already appointed, and to appoint another in his place; and the chairman shall also be empowered to direct any money or other personal property to which such infant may be entitled to be secured or invested for the benefit of such infant, in such manner as the chairman shall consider advisable.

Where the court has no jurisdiction to try the cause chairman should strike it out, but may give costs.

47. Where a cause is brought in a civil bill court, which the court has no jurisdiction to try, the chairman shall order the cause to be struck out, but shall have power to award costs in such manner and to such extent, and recoverable by the same means, as if the court had jurisdiction in such action or suit, and the plaintiff had not appeared, or had appeared, and failed to prove his demand; but this enactment shall be without prejudice to the provisions contained in Part I. of this Act with respect to suits and matters, the subject matter of which exceeds the limit in point of amount of the jurisdiction of the chairman under the said Part I. of this Act.

Provisions of Civil Bill Acts as to jurors and witnesses extended to this Act.

48. The duties and obligations of and upon all jurors, suitors, and witnesses, and their liability to penalty and punishment, shall, in any proceeding under this Act, be the same as those contained, authorised, and imposed by the several statutes now in force relating to civil bill suits.

Affidavits, &c. may be sworn and taken before commissioners in Chancery, clerk of peace, or justice.

49. All affidavits, depositions on oath, declarations, affirmations, and attestations, to be used in any civil bill court may be sworn and taken before any commissioner to administer oaths in Chancery; or before the clerk of the peace of the county in which such civil bill court is held, or before a justice of the peace of such county, and shall before being used be lodged with the clerk of the peace, and shall by him be filed and kept amongst the records of the county.

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Appointment of temporary chairman on death or resignation of chairman during sessions.

50. In case of the death or resignation of a chairman either before or during the holding of any sessions within his county, it shall be lawful for the Lord Chancellor to appoint a barrister with the qualifications required by the seventh section of the Civil Bill Courts (Ireland) Act, 1851, to perform the duties of the chairman of such county during the said session or the remainder or any adjournment thereof, or until the appointment of a successor to the chairman so dying or resigning.

Such temporary chairman shall take the oath and have all the powers given to a barrister appointed under the said seventh section in the case of sickness or absence of a chairman, and he shall be paid such sum as the Lord Chancellor shall think fit to direct, the same to be paid out of the fund provided for the salary attached to the office of chairman of said county.

Any justice of the peace for the county, or the clerk of the peace, or his deputy shall have the same power of adjourning the court of the chairman of such county in case of the death or resignation of such chairman as is given to them in the case of illness or absence by the eighth section of the Civil Bill Courts (Ireland) Act, 1851.

Power to Lord Lieutenant in Council to order business to be conducted at any town irrespective of divisions of counties.

51. It shall be lawful for the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, to order and direct that the whole of the civil or criminal or other business usually transacted at general or quarter sessions of the peace, or at civil bill or land sessions, including licensing business and the business of appeals from petty sessions, or any part or parts of such businesses respectively, may be conducted at any town or towns in any county, either having regard to or irrespective of the divisions for the time being existing in such county, and notwithstanding any enactments requiring any business to be done in any particular division or place, and also to order and direct that any division may for the purposes of any specified business be merged in and form part of any other division, or be merged in the county at large whilst existing or continuing to exist for all other purposes as a separate division.

Any order under this section shall, after publication in the Dublin Gazette, have the like force and effect as if it had been enacted in this Act, and is in this Act referred to as an "arrangement of business order."

Form of recognizance in appeal from petty sessions.

52. In every appeal from any order of the justices in a case of summary jurisdiction under the provisions of the twenty-fourth section of the Petty Sessions (Ireland) Act, 1851, the recognizance into which the appellant is thereby required to enter shall

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be conditioned to prosecute such appeal, and to abide the judgment and order of the Court of Appeal thereon, and to pay such costs as may be awarded by said court, and in the case of an order to imprison not to abscond pending the execution of the said original order, or of the judgment or order of the said court, and save as aforesaid shall be in the form prescribed by the said Act.

In addition to the powers, jurisdiction, and authority conferred by the Petty Sessions (Ireland) Act, 1851, with respect to appeals, the court before which any such appeal shall be pending shall have power to adjourn such appeal, or to remit the matter to the justices with the opinion of the said court thereon, or to make such order in the matter as the said court may think just.

Whenever any such appeal shall not have been prosecuted, or the original order shall have been confirmed, or varied upon appeal, or either party shall upon such appeal have been ordered to pay costs, the court making such order shall have, and at their discretion may exercise, the same powers, jurisdiction, and authority to issue the proper warrant for the execution of the said original order, or of such varied order, or to enforce the payment of the said costs as is by the said twenty-fourth section conferred upon the justices who made the said original order, or any other justices of the same petty sessions.

Estreating of recognizances.

53. So much of the said twenty-fourth section of the Petty Sessions (Ireland) Act, 1851, as provides for the estreating of the recognizances of the party bound to prosecute an appeal shall be and the same is hereby repealed, and from and after the passing of this Act, whenever the party bound to prosecute an appeal against an order to imprison shall have absconded, either before or after the hearing of the said appeal, or the time fixed for the hearing thereof where the same shall not have been prosecuted, or when the party bound to prosecute any appeal shall not have performed and abided the order of the said Court of Appeal made therein, or where the party bound to prosecute an appeal against any order for the payment of any penal or other sum shall have no goods whereon to levy the same by distress, it shall be lawful for the justices at petty sessions where the original order was made, and after like proof of notice to the parties as in estreating other recognizance in summary proceedings, to make an order for estreating the recognizance in any such case to such amount as they shall think fit, and for paying out of such amount such sum as shall have been directed to any party by such original order and thereupon to issue a warrant in the form in the schedule to the said Act annexed for the levy of the same upon the goods of the several persons bound thereby.

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No conviction to be quashed on the ground of an error in the complaint.

54. No conviction or order made by any justice or justices in any matter over which he shall have jurisdiction shall be held void, or shall be quashed by reason of any defect or omission in the summons, charge, or information upon which the same shall purport to have been made, or by reason of the same being under a statute different from that referred to in such summons, charge, or information, provided that such defect, omission, or variance shall not have misled or prejudiced the defendant or have affected the merits of the case; provided always, that it shall be lawful for the justice or justices at the original hearing, or for any court of appeal or superior court before whom the decision of such justices shall afterwards come, if they shall so think fit, and upon such terms as shall appear just, to make any amendment in such summons, charge, or information, which shall appear to be requisite for the purpose of making the conviction or order conformable with the same, or raising the real question at issue and meeting the justice of the case.

No conviction to be quashed on ground of trivial mistake.

55. The forty-ninth section of the Civil Bill Acts Amendment (Ireland) Act, 1864, shall be and the same is hereby repealed, and from and after the passing of this Act if on the trial of any appeal to any court of general quarter sessions of the peace in Ireland, or to the chairman of the county against any conviction or order made or pronounced by a justice or justices of the peace, or if upon showing cause against the issue of or upon the return to any writ of certiorari any objection shall be taken on account of any omission or mistake in the making or drawing up of such conviction or order, or any defect or excess of jurisdiction therein, or any variance between the facts stated in such conviction or order and the complaint or the evidence adduced in respect thereof; and if it shall be shown to the satisfaction of the Court that sufficient grounds were in proof before the justice or justices making such conviction or order, to have authorised the making or drawing up thereof free from the said omission or mistake, defect, or excess, or that such variance is in some point not material to the merits of the case, it shall be lawful for the Court, if it shall so think fit, to amend such conviction or order on such terms as it shall think fit, and to adjudicate thereupon as if no such omission, mistake, error, or variance had existed, or to make such order as in their opinion the justices ought to have made in the matter, or to remit the same to the justices and direct that the order or conviction shall be drawn up free from such error as aforesaid or the case reheard as justice shall require: Provided always, that no objection on account of any omission or mistake or error or aforesaid in any such order or conviction brought up upon a writ of certiorari shall be allowed, unless such omission

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shall have been specified in the conditional order for issuing the said certiorari.

Exceptions need not be negatived.

56. In all proceedings in cases of summary jurisdiction under the Petty Sessions (Ireland) Act, 1851, or any Act incorporating or referring to the same, it shall not be necessary to specify or negative in any complaint, information, or conviction, any exception, exemption, proviso, qualification, or excuse contained in the statute on which the said complaint or information shall have been framed, whether the same does or does not accompany the description of the offence in the said statute, and the same may be proved at the hearing by the defendant if he will have the advantage of the same, and if the same be specified or negatived in the information or complaint no proof in relation to the matters so specified or negatived shall be required from the complainant.

Power to make rules and orders.

57. The Lord Chancellor, with the advice and concurrence of the chairmen, or any five of them, may at any time after the passing of this Act frame rules and orders for regulating the practice of the civil bill courts under the provisions of this Act, and the forms of proceedings therein, and for defining the duties of the clerks of the peace and other officers of the civil bill courts in connexion with the jurisdiction by this Act conferred, or otherwise for carrying this Act into effect, and may from time to time amend such rules, orders, and forms; and such rules, orders, and forms, certified under the hands of the Lord Chancellor and any five of the chairmen, shall, from and after the *first day of January one thousand eight hundred and seventy-seven*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in every civil bill court. It shall also be lawful for the Lord Chancellor, with the consent of the recorder of any court, at any time after the passing of this Act to make rules regulating the practice and procedure in such court, and the same shall from and after the *first day of January one thousand eight hundred and seventy-seven*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in such court.

Jurisdiction extended to recorders of Dublin and Cork.

58. All jurisdiction, powers, and authorities by this Act conferred upon the judges of the civil bill courts are hereby conferred upon the recorder of the city of Dublin and recorder of the city of Cork.

Pensions, Salaries, and Fees.

Increase of salaries.

59. No addition shall be made to the salaries of the chairmen in consideration of the increased duties herein-before imposed upon them beyond the additions to their respective salaries authorised by

the Act of the session of the second and third years of the reign of his late Majesty William the Fourth, chapter eighty-eight, and by the sixty-third section of the Landlord and Tenant Act (Ireland), 1870, and such additions shall be payable in the same manner as the salaries provided for them by the Civil Bill Courts (Ireland) Act, 1851: *Provided always, that notwithstanding anything herein contained, the Treasury may, with the concurrence of the Lord Chancellor, pay the travelling expenses of the chairmen out of such funds as Parliament may from time to time provide for that purpose.* A.D. 1876.

Pensions of chairmen.

60. The pension which may be granted to the chairman of a county under the Act of the session of Parliament held in the twenty-first and twenty-second years of the reign of Her present Majesty, chapter eighty-eight, shall be calculated upon the salary payable to such chairman at the time of his resignation as chairman of such county, or as chairman of two or more counties united under the authority of this Act.

Provision as to existing recorder of city of Dublin.

61. *In case at any time after the passing of this Act the Right Honourable Sir Frederic Shaw, Baronet, shall resign the office of recorder of the city of Dublin, it shall be lawful for Her Majesty, in consideration of his lengthened services extending over a period of forty-seven years, to grant to him for his life a pension or yearly sum not exceeding in amount the annual sums now payable to him by way of salary; and such pension or yearly sum shall be paid in like manner, in the same proportions, at the same times, and out of the same funds as his salary previous to the grant of such pension or yearly sum. He shall also be entitled and continue to receive for his life from the borough fund of the city of Dublin the same annual sum as he has heretofore received.*

Recorder of Galway.

62. The office of recorder of the city of Galway shall on the next vacancy cease to exist, and all the jurisdiction heretofore exercised by the recorder shall vest in and be exercised by the chairman of the county of Galway.

Salary of future recorders of city of Dublin.

63. *The salary of any person appointed after the passing of this Act to the office of recorder of the city of Dublin shall be two thousand one hundred pounds per annum, and shall be paid out of the same fund and on the same days and times as the salaries of chairmen of counties. After the retirement of the present recorder the borough fund of the city of Dublin shall be no longer chargeable with the payment of any sum to any person succeeding him in his office.*

Pensions for future re-

64. *Her Majesty may at any time grant to any recorder of the city of Dublin who shall have served for fifteen years as such*

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corders of the city of Dublin.

recorder, or who is disabled by permanent infirmity from the performance of the duties of his office, a pension, by way of annuity, to be continued during his life, of an amount not exceeding two thirds of his salary; such pension to be growing from day to day, and payable out of the Consolidated Fund on the usual quarterly days of payment, or such other days as the Treasury shall determine.

Fixing and collection of fees.

65. The Lord Chancellor, with the advice and concurrence of the chairmen, or any five of them, and with the consent of the Treasury, may, by order, fix the fees to be taken in the civil bill courts in respect of any business under this and any other Acts in force for the time being in such courts, and may, with the like consent and concurrence, alter, reduce, or increase the same from time to time; he may also, with the like concurrence and consent, alter the fees and stamp duties at present taken in those courts and substitute new ones, and in other cases, where no fees are at present imposed, declare and fix whether any and what fees shall be taken, and from time to time alter, reduce, or increase any fees so substituted or defined.

All such fees shall be payable from and after the commencement of this Act (save as otherwise directed by such order) into the receipt of Her Majesty's Exchequer, and be carried to the Consolidated Fund, and with respect thereto the following rules shall be observed:

(1.) The fees shall, except so far as such order may otherwise direct, be taken by stamps, and if not taken by stamps shall be taken, applied, accounted for, and paid over in such manner as may be directed by the order.

(2.) Such stamps shall be impressed or adhesive, as the Treasury may from time to time direct.

(3.) The Treasury, with the concurrence of the Lord Chancellor, may from time to time make such rules as may seem fit for publishing the amount of the fees and regulating the use of such stamps, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purposes of such stamps, and for insuring the proper cancellation of adhesive stamps and for keeping accounts of such stamps.

(4.) Any document which ought to bear a stamp under this Act shall not be of any validity unless and until it is properly stamped, but if any such document is through mistake or inadvertence received, filed, or used without being properly stamped, the court may, if it shall think fit, order that

the same be stamped in accordance with such directions as may be set forth in such order, and on such document being stamped accordingly the same and every proceeding relative thereto shall be as valid as if such document had been properly stamped in the first instance.

(5.) The Commissioners of Inland Revenue shall keep such separate accounts of all money received in respect of stamps under this Act, as the Treasury may from time to time direct, and subject to the deduction of any expenses incurred by the said Commissioners in the execution of this section, the money so received shall, under the direction of the Treasury, be carried to and form part of the Consolidated Fund.

(6.) Any person who forges or counterfeits any such stamp, or uses any such stamp, knowing the same to be forged or counterfeit, or to have been previously cancelled or used, shall be guilty of forgery, and be liable on conviction to penal servitude for a term not exceeding *seven years*, or to imprisonment with or without hard labour for a term not exceeding *two years*.

An order under this section may abolish any existing fees which may be taken in the said courts or offices, or any of them, or by the said officers or any of them, but subject to the provisions of any order made in pursuance of this section, the existing fees shall continue to be taken, applied, and accounted for as if this Act had not been passed.

When and as soon as the said fees and stamp duties shall have been fixed by the Lord Chancellor in the manner aforesaid, all the provisions contained in the Civil Bill Courts (Ireland) Act, 1851, and the Acts altering, amending, or affecting the same, in reference to the stamps and fees thereby imposed and authorised to be taken, shall so far as the same may be applicable extend and apply thereto.

Fees for clerks of peace.

66. The Lord Chancellor may, with the advice and concurrence of the chairmen, or any five of them, from time to time fix and determine the fees to be paid after the *first day of January one thousand eight hundred and seventy-seven*, to the clerks of the peace in respect of any duties or business imposed upon them by this Act, and may alter those heretofore received by them and substitute others.

Qualification of clerk of peace.

67. No person shall be appointed a clerk of the peace who is not a practising attorney or solicitor of ten years standing; and every clerk of the peace so appointed shall discharge the duties of

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his office in person, and not by deputy, except, in case of illness, by permission of the Lord Chancellor.

No clerk of the peace shall practise in the civil bill court or at quarter sessions in the county of which he is clerk of the peace.

Deputies of clerks of the peace appointed before passing of Act.

68. No person holding the office of clerk of the peace at the time of the passing of this Act shall appoint any person to act as his deputy unless such person shall be approved of by the Lord Chancellor; and any deputy of any clerk of the peace shall be removable by the Lord Chancellor.

Power to frame a scale of costs and charges.

69. The Lord Chancellor, with the assent and concurrence of the chairmen or any five of them, may from time to time frame a scale of costs and charges to be paid to counsel and attorneys with respect to all proceedings authorised to be taken in the civil bill courts, either by this or any other Acts in force for the time being, and from time to time amend such scale; and such scale or amended scale, certified under the hands of the Lord Chancellor and any five chairmen, shall, from the *first day of January one thousand eight hundred and seventy-seven*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in every civil bill court.

Like power as to courts of recorders of boroughs.

70. The powers of fixing and collecting fees and framing a scale of costs and charges to be paid in the civil bill courts, or in connexion with proceedings therein, may be exercised by the Lord Chancellor also in and for the courts of recorders of boroughs, but in lieu of the assent and concurrence of the chairmen, such powers shall be exercised with the assent and concurrence of the recorders or any two of them; and the several provisions of this Act with respect to the mode of giving effect to the exercise of such powers by the civil bill courts, and the collection and application of fees therein levied, shall also apply to and be in force with regard to the courts of the recorders.

PART VII.

UNION OF COUNTIES.

On vacancy of chairmanship Lord Lieutenant in Council may unite counties under one chairman.

71. For the purpose of effecting, according as circumstances may require, the union of two or more counties under one chairman, the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, may, if expedient, make an order whenever a vacancy shall occur in the office of chairman of a county, for the permanent or temporary union of such county (herein-after referred to as "the vacant county") with another county for the

purposes of the criminal and civil jurisdiction exercised by the chairman subject to the provisions following: A.D. 1876.

(1.) Such order may provide for permanently uniting the offices of chairman of the vacant county and of any other county, the chairman whereof shall have been appointed since the *first day of January one thousand eight hundred and seventy-four*, or shall consent thereto, and from and after the date of such order on every vacancy in such offices from time to time but one person shall be appointed to fill the same, and the person from time to time holding the offices so united by such order shall exercise in each county all the jurisdiction conferred by this or any other Act on the chairman of each such county.

The Lord Lieutenant may, if he shall think fit, with the consent of the Treasury, fix an increased salary, to be payable from and after the date of such order, to the chairman of such united counties, and thereupon the same shall be paid out of the same funds and in the same manner as the salary of such chairman was payable at the date of such order, provided that in no case shall the amount fixed for such increased salary exceed the salary payable by virtue of this and any other Act to a chairman of the first class; or,

(2.) Such order may provide that the chairman of some other county to be named therein, who shall have been appointed since the *first day of January one thousand eight hundred and seventy-four*, or who shall consent thereto, shall for a limited period named therein have all the authority and power, and exercise in such vacant county all the jurisdiction conferred by this or any other Act upon the chairman thereof, and hold the office in the same manner as he holds the office in the county of which he is chairman.

The Lord Lieutenant may, if he shall think fit, with the consent of the Treasury, fix an additional salary to be paid to such chairman in respect of his increased duties, and thereupon the same shall be payable to him, while he shall discharge such additional duties, in addition to his previous salary, out of moneys to be provided by Parliament for such purposes, notwithstanding any limitation of amount of salary in this Act provided.

(3.) When two counties have been permanently or temporarily united, and the Lord Lieutenant, with the advice and con-

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sent of the Privy Council in Ireland, shall deem it expedient from time to time to unite the counties so united with any other county or counties, the preceding provisions of this section shall in every such case apply and be in force and have effect as if such union were the union of two counties, and for such purpose the counties united at the time of such proposed further union shall be deemed to be one county.

(4.) With a view to the permanent union of counties, it shall also be lawful for the Lord Lieutenant, with the concurrence of the Lord Chancellor and of the Treasury, if in any case it shall seem to them expedient for that purpose, to permit and enable the retirement of a chairman with an annual grant by way of special pension not exceeding two thirds of his salary, notwithstanding the conditions imposed by any other Act on the grant of a pension.

Until the number of chairmen shall have been reduced to twenty-one, whenever a vacancy shall occur in the office of chairman of any county provision shall, if practicable, be made for the discharge of the duties of such office by moving thereto a chairman of some other county, or by means of the powers contained in this section.

Power to unite offices of recorder of city, and chairman of county, Dublin.

72. When after the passing of this Act a vacancy shall occur in the office of chairman of the county of Dublin, the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, shall possess and may exercise the same powers of uniting permanently the office of chairman of the county of Dublin with the office of recorder of the city of Dublin and for regulating the times, places, and districts within which the jurisdiction of such chairman and recorder shall be exercised, as are by this Act conferred for the purpose of effecting the permanent union of the offices of chairmen of counties and in connexion therewith; and in case such offices shall be so united, the person appointed thereto shall be entitled to receive the salary by this Act provided for any person appointed after the passing of this Act recorder of the city of Dublin and no more.

On any such union Lord Lieutenant in Council may alter times for holding sessions, &c.

73. Whenever two or more counties have been united under the preceding provisions of this Act, it shall be lawful for the Lord Lieutenant, notwithstanding anything contained in the Civil Bill Court (Ireland) Act, 1851, or any other Act, by and with the advice and consent of the Privy Council in Ireland, from time to time by

order to appoint the times and places at which, and the districts or divisions for which, the general or quarter sessions of the peace and civil bill court or civil bill court only shall be held in and for the said respective counties, and, so far as may be practicable in the case of such union, exercise with respect to such united counties the powers conferred by this Act with respect to the making of an arrangement of business order. A.D. 1876.

Every such order shall be published in the Dublin Gazette, and shall thereupon become and be as valid and effectual for all purposes as if the same were enacted in this Act; but any such order may be rescinded or varied by any subsequent order made and published in like manner.

Power to vary classification.

74. The Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland, and with the concurrence of the Lord Chancellor and of the Treasury, may from time to time remove the name of any county from the class in which by any Act it is now placed and insert it in a different class; and thereupon such county shall for all purposes be and continue to form one of the counties of the class to which its name has been so removed: Provided always, that except upon a vacancy in the office of chairman no county shall be placed in a class lower than that in which it is at the time of the passing of this Act.

Certain chairmen not to practise.

75. No person who after the passing of this Act shall be appointed chairman of any county or of any permanent union of counties shall practise at the bar.

(Ireland).

A

BILL

To extend the Jurisdiction of the Courts for hearing Civil Bill Causes in Ireland, and for other purposes relating thereto.

(*Prepared and brought in by Mr. Solicitor-General for Ireland and Sir Michael Hicks Beach.*)

Ordered, by The House of Commons, *to be Printed,* 18 *February* 1876.

[Bill 82.]

Under 4 *oz.*

Clean Rivers Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title of Act.
2. Extent of Act.
3. Pollution of clean rivers prohibited.
4. Prohibition to be enforced by summary order of county court.
5. Appeal from county court, and removal of case into High Court of Justice.
6. Powers of Act cumulative.
7. Saving of certain Conservancy Acts.
8. Definitions.

Application of the Act to Scotland.

9. Modifications of Act in Scotland.

A

B I L L

INTITULED

An Act for making further Provision against the Pollution of Rivers hitherto free from pollution. A.D. 1876.

WHEREAS it is expedient to make better provision for the preservation of the purity of rivers and parts of rivers which at the date of the passing of this Act are free from pollution:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title of Act.

1. This Act may be cited for all purposes as the "Clean Rivers Act, 1876."

Extent of Act.

2. This Act shall not extend to Ireland.

Pollution of clean rivers prohibited.

3. Every person who causes to fall or flow, or knowingly permits to fall or flow, or to be put or carried into any clean river or any clean part of a river any polluting matter, shall be deemed to have committed an offence against this Act.

Prohibition to be enforced by summary order of county court.

4. In England the county court having jurisdiction in the place where any offence against this Act in relation to any river or part of a river is committed may, on the application of any person interested in keeping any such river or part of a river free from pollution, by summary order require any person to abstain from the commission of such offence, and may insert in any order such conditions as to time or mode of action as it may think just, and may suspend or rescind any order on such undertaking being given or condition being performed as it may think just, and generally may give such directions for carrying into effect any order as to the court seems meet.

Any person making default in complying with any requirement of an order of a county court made in pursuance of this section shall pay such sum, not exceeding fifty pounds a day for every day during which he is in default, as the court may order; moreover, if

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any person so in default persists in disobeying any requirement of any such order for a period of not less than a month or such other period less than a month as may be prescribed by such order, the court may in addition to any penalty it may impose appoint any person or persons to carry into effect such order, and all expenses incurred by any such person or persons to such amount as may be allowed by the county court shall be deemed to be a debt due from the person in default to the person or persons executing such order, and may be recovered accordingly in the county court.

Appeal from county court, and removal of case into High Court of Justice.

5. An appeal shall lie from any order of a county court made under this Act to the High Court of Justice in the same manner and subject to the same conditions as are for the time being applicable to appeals to the said High Court from other orders of county courts.

Any plaint entered in a county court under this Act may be removed into the High Court of Justice by leave of any judge of the said High Court, if it appears to such judge desirable in the interests of justice that such case should be tried in the first instance in the High Court of Justice and not in a county court, and on such terms as to security for and payment of costs, and such other terms (if any) as such judge may think fit.

Powers of Act cumulative.

6. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not passed; and nothing in this Act shall legalise any act or default which would but for this Act be deemed to be a nuisance or otherwise contrary to law.

Saving of certain Conservancy Acts.

7. Nothing in or done under this Act shall extend to interfere with, take away, abridge, or prejudicially affect any right, power, authority, jurisdiction, or privilege given by "The Thames Conservancy Acts, 1857 and 1864," or by "The Thames Navigation Act, 1866," or by the Lee Conservancy Act, 1868, or any Act or Acts extending or amending the said Acts or either of them, or affect any outfall or other works of the Metropolitan Board of Works (although beyond the Metropolis) executed under the Metropolis Management Act, 1855, and the Acts amending or extending the same, or take away, abridge, or prejudicially affect any right, power, authority, jurisdiction, or privilege of the Metropolitan Board of Works.

Definitions:

8. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them; that is to say,

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"Person" includes any body of persons, whether corporate or unincorporate: "Person:"

"River" includes lakes, ponds, streams, canals, and watercourses of every description: "Stream."

"Clean river" or "clean part of a river" means any river as defined by this Act, or part of a river in which the water is not affected by any extraneous polluting cause to such an extent as to be materially deteriorated in quality:

"Polluting matter" includes any matter, whether solid or liquid, which introduced into water alters appreciably for the worse the quality of such water.

Application of the Act to Scotland.

9. In the application of this Act to Scotland the following provisions shall have effect. Modifications of Act in Scotland.

(1.) The expression "the county court" shall mean the sheriff of the county, and shall include sheriff substitute; and the expression "plaint entered in a county court" shall mean petition or complaint presented in a sheriff court:

(2.) The expression "the High Court of Justice" shall mean the Court of Session in either division of the Inner House thereof:

(3.) All the jurisdiction, powers, and authorities necessary for the purposes of this Act are hereby conferred on sheriffs and their substitutes.

Rivers. [H.L.]

A

BILL

INTITULED

An Act for making further Provision against the Pollution of Rivers hitherto free from pollution.

(*Brought from the Lords* 31 *July* 1876.)

Ordered, by The House of Commons, *to be Printed*, 31 *July* 1876.

[Bill 279.]

Under 1 *oz.*

Clerk of the Peace and of the Crown (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Application of Act.
2. Short title.
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SCHEDULE.

[Bill 119.]

A

B I L L

TO

Provide for the Union of the Offices of Clerk of the Peace and Clerk of the Crown in Ireland, and for other purposes relating thereto. A.D. 1876.

WHEREAS it is expedient to amend the law regulating the appointment of persons to the offices of Clerk of the Crown and Clerk of the Peace in Ireland, and the collection and receipt of the fees and emoluments of such offices, and to make provision for the union of such offices, and for other purposes:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

Application of Act.

1. This Act shall extend and apply to Ireland only.

Short title.

2. This Act may be cited for all purposes as "The Clerks of the Crown and Peace Act (Ireland), 1876."

Repeal of Statutes.

3. The several parts of the several Acts in the Schedule (A.) to this Act annexed shall be and the same are hereby repealed, but such repeal shall not prejudice or affect any proceedings instituted before the time of such repeal, nor shall it be construed to lessen or affect any right to which any person may at the time of such repeal be entitled under such repealed enactments or any liabilities then existing or incurred thereunder.

Interpretation of terms.

4. In this Act—

The term "Lord Lieutenant" shall mean the Lord Lieutenant and the Lords Justices or other chief governors or governor of Ireland for the time being:

The term "Lord Chancellor" shall mean the Lord Chancellor of Ireland or Lord Keeper or Lords Commissioners for the custody of the Great Seal in Ireland:

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The term "Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them:

The term "county" shall extend to and include a county of a city and county of a town and any riding of a county:

The term "grand jury" shall include any town council authorised to make presentments:

The term "borough" shall mean any borough, not being a county of a city or county of a town, to which a separate commission of the peace has been or shall be granted:

The expression "chairman" shall mean the chairman of quarter sessions of the county, and shall extend to and include the recorders of the city of Dublin, of the borough of Cork, and of any borough or town in Ireland under the Act passed in the session of the third and fourth years of Her Majesty's reign, chapter one hundred and eight, intituled "An Act for "the Regulation of Municipal Corporations in Ireland," and their deputies lawfully appointed.

Provisions for consolidating offices of Clerk of Crown and Peace.

5. For the purpose of consolidating the offices of Clerk of the Crown and Clerk of the Peace in Ireland, and to provide, pending such consolidation, for the due discharge of the duties of the Registrars of the Civil Bill Courts, the following provisions shall take effect:

(1.) When first *after the passing of this Act* a vacancy shall occur in the office of either Clerk of the Crown or Clerk of the Peace in any county or borough, the Lord Lieutenant shall order that the offices of Clerk of the Crown and Clerk of the Peace in such county or borough shall be consolidated, such consolidation to take effect when the united offices shall be held by one and the same person (hereinafter referred to as "the Clerk of the Crown and Peace"), after which the offices of Clerk of the Crown and Clerk of the Peace in such county or borough shall thenceforth be and remain united and consolidated, and the person holding such united and consolidated offices shall be called the Clerk of the Crown and Peace for such county or borough:

(2.) Upon any such vacancy as aforesaid, the Lord Lieutenant, if he shall so think fit, may appoint to the offices so ordered to be consolidated, the holder of the other of the said offices not then being vacant, and which person is hereinafter called "the surviving officer:"

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(3.) When after such union and consolidation as aforesaid the office of a surviving officer who shall not have been appointed to the united offices shall be vacant, or if both the said offices shall be vacant simultaneously, the Lord Lieutenant shall appoint to the united offices a fit and proper person qualified as herein-after mentioned:

(4.) If upon a vacancy occurring in the office of Clerk of the Crown for any county or borough the surviving officer shall refuse to accept the united offices, or for any other reason it may be deemed inexpedient to appoint him to such united offices, it shall be lawful for the Lord Lieutenant, pending the consolidation of the offices, to appoint a fit and proper person (herein-after called "the temporary Clerk of the Crown") to perform the duties of Clerk of the Crown for such county or borough:

(5.) If upon a vacancy occurring in the office of Clerk of the Peace for any county or borough the surviving officer shall refuse to accept the united offices, or for any other reason it may be deemed inexpedient to appoint him to such united offices, it shall be lawful for the Lord Lieutenant, pending the consolidation of the offices, to appoint a fit and proper person (herein-after called "the temporary Clerk of the Peace") to perform all the duties of the Clerk of the Peace for such county or borough:

(6.) At any time *after the passing of this Act* before such vacancy or consolidation as aforesaid it shall be lawful for the Lord Lieutenant, with the consent of the Treasury, if he shall deem it expedient for the more effectual discharge of the duties of registrar of the Civil Bill Court of any county or borough in respect of any jurisdiction not heretofore exercised by such Court, to appoint by an order under his hand a fit and proper person (herein-after called "the additional registrar") temporarily to discharge so much of the duties of such registrar as such order may direct until upon a vacancy in the office of Clerk of the Peace provision shall be made for the effectual discharge of such duties by the appointment of a temporary Clerk of the Peace or of a Clerk of the Crown and Peace for such county or borough:

(7.) No person shall be appointed to such united offices, or to discharge the duties of such temporary Clerk of the Crown or temporary Clerk of the Peace or additional registrar, unless he shall be a practising attorney or soli-

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citor of six years standing, or, not being so qualified as an attorney or solicitor, he shall at the time of the passing of this Act discharge the duties of Clerk of the Crown or Clerk of the Peace, or deputy Clerk of the Crown or deputy Clerk of the Peace, and the Lord Chancellor shall specially certify that he is otherwise properly qualified for such appointment: Provided always, that an attorney or solicitor who shall have been appointed to discharge any of the above-mentioned duties, or shall have acted as deputy to any Clerk of the Crown or Clerk of the Peace appointed before the passing of this Act, shall be deemed within the meaning of the provisions of this section to have practised as an attorney or solicitor during such time as he shall have discharged such duties or acted as such deputy. Every person so appointed shall discharge the duties of his office in person and not by deputy, except in case of illness or other exceptional circumstances and by permission of the Lord Lieutenant, but this shall not prevent him whilst so discharging his duties in person from employing clerical assistants at his own expense, if he shall so think fit:

(8.) Any person holding the office of Clerk of the Crown and Peace shall not practise as an attorney or solicitor, nor shall he act in the Commission of the Peace; he shall hold his office by the same tenure as an officer serving in the permanent civil service of the Crown, and shall be bound to devote his whole time to the duties thereof:

(9.) Every person appointed additional registrar under this section shall be paid for his services such remuneration as the Treasury, with the consent of the Lord Chancellor, shall from time to time appoint. Every such person shall from time to time be removable by the Lord Lieutenant without having any claim to compensation by reason of such removal:

(10.) It shall be lawful for the Treasury, with the consent of the Lord Chancellor, if they shall so think fit, from time to time to direct that such annual or other allowance as they shall think proper shall be made for defraying the expense of postage, books, stationery, and other requisites, or necessary clerical assistance in the office of Clerk of the Crown and Peace or additional registrar:

(11.) In case any person appointed to the office of Clerk of the Crown before the passing of this Act, and who at the time

of his appointment had accepted same, subject to such alterations or duties as should be made therein or added thereto by Parliament, shall refuse to accept the office of Clerk of the Crown and Peace if offered him, it shall be lawful for the Lord Lieutenant, if he shall so think fit, to direct that such person shall cease to hold the said office of Clerk of the Crown without being entitled to any grant, pension, or superannuation allowance whatsoever:

(12.) Every person who shall be appointed to the office of Clerk of the Crown and Peace for any county or borough shall have all the powers, jurisdictions, and authorities belonging to or exerciseable by virtue of each of the said offices of Clerk of the Crown and Clerk of the Peace within such county or borough respectively, and every person appointed temporary Clerk of the Crown or temporary Clerk of the Peace, or additional registrar, or otherwise temporarily employed to discharge any of the duties of the offices of Clerk of the Crown or Clerk of the Peace by virtue of this Act, shall have, during the time he shall be so employed and in respect of the duties which he shall be so appointed to discharge, the like powers, jurisdictions, and authorities, and be subject to the like obligations and control, as if he were a permanent officer.

Discharge of duties by present Clerks of the Crown and Peace.

6. No person holding the office of Clerk of the Crown or Clerk of the Peace at the time of the passing of this Act shall thereafter discharge any of the duties of his office by any deputy who shall not have been approved of by the Lord Chancellor; and any such Clerk of the Crown or Clerk of the Peace discharging any such duties by any deputy not so approved shall by so doing forfeit all right to any salary during the time of the discharge of his duties by a deputy not so approved, and shall in case the Lord Chancellor so direct cease to hold the office of Clerk of the Crown or Clerk of the Peace, as the case may be.

Security to be given by Clerk of the Crown and Peace or temporary officer or registrar.

7. Every person who after the passing of this Act is appointed to the office of Clerk of the Crown and Peace or temporary Clerk of the Crown or temporary Clerk of the Peace, or additional registrar, as herein-before mentioned, shall before entering upon the duties of such office give security for the due discharge of the duties of such office, in double the amount of his estimated annual salary under the provisions of this Act in such manner as the Lord Lieutenant, with the consent of the Treasury, may from time to time order and direct.

Salaries to be presented pend-

8. The grand jury of each county in Ireland shall continue to present, and each borough shall continue to pay, the respective

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ing final consolidation.

salaries now presentable or payable for the Clerk of the Crown and the Clerk of the Peace respectively in such county or borough, so long as regards each of such salaries as the person at the time of the passing of this Act filling the office in respect of which same is presentable or payable, or as the person who may be appointed thereto as temporary Clerk of the Crown or temporary Clerk of the Peace shall continue to hold such office. And so long as any person now filling the office of Clerk of the Crown or of Clerk of the Peace in any county or borough, or his deputy heretofore appointed, shall be entitled to receive any annual sum by way of special pension under the provisions of this Act, the grand jury of such county shall present, and such borough shall pay the amount of every such annual sum granted by way of special pension.

Any person appointed under the provisions of this Act temporary Clerk of the Crown or temporary Clerk of the Peace in any county or borough, shall so long as he continues in such office be entitled to take and receive all such presentments and payments and all the fees and other emoluments pertaining to the office of Clerk of the Crown or Clerk of the Peace respectively for such county or borough in like manner as the persons now respectively holding such offices may take and receive the same.

Upon the final union and consolidation of said offices in the person of a single officer under this Act, and so soon as the several salaries and special pensions in this section mentioned shall cease to be payable in any county or borough, such grand jury or borough, as the case may be, shall cease to be chargeable with the payment of any sum in respect of the salaries or special pensions of said officers respectively, and no such salaries shall any longer be presented or paid.

Certain emoluments of Clerk of the Peace to continue to be presented.

9. Notwithstanding the union and consolidation of the offices of Clerk of the Crown and Clerk of the Peace, and both before and after such consolidation, the several grand juries and boroughs in Ireland respectively shall continue to present and pay all sums other than salaries now presentable or payable by them respectively for or in respect of the offices of the Clerk of the Crown and Clerk of the Peace under section one hundred and ten of the Act passed in the session held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, chapter one hundred and sixteen.

All fees of officers to be paid to Treasury.

10. From and after the union and consolidation of the offices of Clerk of the Crown and Clerk of the Peace in any county or

borough, all the fees and emoluments now receivable by or payable to the Clerk of the Crown and Clerk of the Peace in such county or borough other than the salaries and emoluments now presentable or payable by the grand jury of such county or by such borough for or to any of such officers, shall be receivable by Her Majesty's Exchequer, and shall be collected and paid over in such manner as the Treasury from time to time shall direct, and the several provisions of any Act or Acts with respect to the fixing and collecting of fees taken in the Civil Bill Courts of Ireland, and the paying of the same into the receipt of Her Majesty's Exchequer, shall, in so far as the same may be applicable, be applied to and shall regulate the fees and emoluments in this section mentioned.

Officers to keep office. 6 & 7 Will. 4. c. 34. s. 11.

11. Every person holding the office of Clerk of the Crown or Clerk of the Peace, or of Clerk of the Crown and Peace, and every person appointed temporary Clerk of the Crown or temporary Clerk of the Peace, or additional registrar, for any county or borough, shall keep in the town in such county in which the assizes for such county are or shall be holden, or in the said borough, an office; and such office shall be kept open every day except Sunday, Good Friday, and Christmas Day for such time as the Lord Chancellor shall appoint; and if any such officer shall omit or neglect to keep such office, or to keep the same open during such time as the Lord Chancellor shall appoint, he shall for every such omission or neglect forfeit the sum of *five pounds* to any person who shall sue for the same by civil bill before the chairman having jurisdiction to determine causes by civil bill in the town or borough in which such office is or ought to be kept, or by action in any of the superior courts; and such officer shall and may be fined (whether sued for such penalty or not) by any judge of assize at any assizes for such county such sum not exceeding *ten pounds* as he shall think proper for every such omission or neglect: Provided always, that when and as long as any such officer shall in the discharge of his official duties be necessarily absent from such office the same may be kept open and all the business thereof discharged by a fit and competent clerk, whom such officer may at his own expense employ, and for whom he shall be responsible.

Provision in case of sudden death of Clerks of the Crown or Peace. 16 & 17 Vict. c. 57. sec. 12.

12. In case of the Clerk of the Crown or Clerk of the Peace, or Clerk of the Crown and Peace, for any county or borough, or the deputy of any such Clerk of the Crown or Peace, or the temporary Clerk of the Crown or the temporary Clerk of the Peace, or additional registrar, suddenly dying or becoming incapacitated from discharging his duties during any assizes, it shall be lawful for the

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judges of assize, or one of them, to appoint a fit and proper person to discharge the duties of such officer during such assizes, and in the case of such sudden death or incapacity occurring during the holding of any quarter sessions or Civil Bill Court or land sessions, the chairman presiding in or holding such court or sessions may appoint a fit and proper person to discharge the duties of such officer during the holding of such sessions or court, and any person so appointed shall have for the purpose of discharging such duties all the power and authority, and while he shall hold such appointment shall be subject to all the liabilities which the officer so dying or becoming incapacitated would have had or to which he would have been liable.

Annual accounts to be taken and surplus under 28 & 29 Vict. c. 50. to be paid to Treasury in certain cases.

13. From and after the time of any such union and consolidation of the offices of Clerk of the Crown and Clerk of the Peace, the Treasury shall in each year ending on the thirty-first day of March cause an account to be taken setting out in detail upon the debtor side thereof all sums and expenses which under the provisions of this Act or of the Act of the session of the second and third years of the reign of His Majesty King William the Fourth, chapter eighty-eight, section sixty-seven, or of the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter fifty-seven, section four, and Schedule B., or of the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter eighty-eight, or of the Landlord and Tenant (Ireland) Act, 1870, and any Act for the time being in force altering, amending, or affecting the same, are or shall be made chargeable upon and payable out of public funds, and setting off upon the credit side of such account all moneys, fees, and emoluments receivable by the Treasury and by Her Majesty's Exchequer under the said Acts and this Act:

(1.) If from the time when such consolidation as aforesaid shall have been effected, it shall appear that the aggregate amount upon the credit side of such account is insufficient to balance the amount appearing upon the debtor side of such account in respect of the entire charge of the united offices of the Clerks of the Crown and Peace, including therein the salaries, expenses, and pensions of such united offices and two-third parts of the salaries and pensions payable to the chairmen out of public funds, then in every such case the Clerk of the Fines and Penalties in Ireland shall, on a requisition to that effect from the Treasury, apply towards making up the deficiency so ascertained the whole or so much as may be necessary of the surplus of the moneys arising from the

sale of licenses under the Dogs Regulation (Ireland) Act, 1865, as shall remain in his hands in any such year after defraying all expenses under that Act, anything in the said Act or in any Act amending the same to the contrary notwithstanding; and from and after the passing of this Act the application of such surplus in payment to treasurers in counties and boroughs under the said Dogs Regulation (Ireland) Act, 1865, and any Act amending the same, shall be subject in the first instance to any payments by this Act authorised to be made out of such surplus:

(2.) The amount so applied by the Clerk of the Fines and Penalties in any such year shall be paid over to Her Majesty's Exchequer in such manner as the Treasury shall from time to time direct:

(3.) A copy of such account shall be laid before both Houses of Parliament within one month from the thirty-first March in every year if Parliament shall be then sitting, and if Parliament be not then sitting, then within one month after it shall be next assembled.

Special pension to present holders of these offices.

14. With a view to effecting the union of the offices of Clerk of the Crown and Clerk of the Peace for any county or borough, the Lord Lieutenant may, with the approval of the Treasury, at any time after *the passing of this Act*, grant to any person holding either of such offices who shall retire from the same, by way of special pension, such annual sum as, having regard to length of service and the other circumstances of such case, he may think fit, not exceeding *two thirds* of the entire yearly salary and emoluments of the office of such person at the time of such retirement, less the amount of the annual sums (if any) paid by him to and the emoluments (if any) received by his deputy, and may also grant in like manner to such deputy an annual grant, by way of special pension, of a sum not exceeding *two thirds* of the amount of such annual sums and emoluments (if any) so payable to or receivable by him, notwithstanding the conditions imposed by any other Act on the grant of a pension or superannuation allowance.

Pensions to future holders of such offices.

15. The Lord Lieutenant may, with the approval of the Treasury, grant to any person who shall after the passing of this Act be appointed to the office of Clerk of the Crown and Peace for any county or borough, upon his retirement from such office, a pension, the amount whereof shall be ascertained and determined according to the principles of the Superannuation Act, 1859, but which shall not exceed in any case *two thirds* of his salary at the

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time of such retirement: Provided always, that in reckoning the period of his service for the purposes of such Act, the time (if any) during which such person may have filled the office of Clerk of the Crown or of Clerk of the Peace for such county or borough shall be included: And provided further, that no person who shall from and after the passing of this Act be appointed a deputy by any Clerk of the Crown or Clerk of the Peace, or who shall be temporarily appointed for the discharge of the duties of either of such offices, shall, upon removal or retirement therefrom, be entitled to any pension, gratuity, or superannuation allowance.

Proviso as to assistant and deputies.

Payments by Treasury under this Act.

16. The Treasury shall, *out of such funds as shall from time to time be provided by Parliament in that behalf*, make the following payments to the persons, and in manner hercin-after mentioned, in each and every year:

(1.) To every person now holding the office of Clerk of the Peace for any county or borough such additional sum annually as may by any order of the Treasury made from time to time, with the concurrence of the Lord Chancellor, be added thereto in consideration of any duties which he may hereafter discharge as registrar of a Civil Bill Court, in addition to those which he is now required to perform as such registrar:

(2.) To every person who shall after the passing of this Act be appointed to the office of Clerk of the Crown and Peace such annual sum by way of salary as the Treasury, with the concurrence of the Lord Chancellor, shall from time to time direct, having regard to the extent and nature of the duties of such office:

(3.) To any person who under the provisions of this Act shall be appointed to discharge the duties of additional Registrar or the Civil Bill Court of any county or borough, or temporary registrar of the city of Dublin, as by this Act defined, or who shall have been temporarily employed under the provision of this Act for the discharge of any duties in case of the sudden death or incapacity of the officer otherwise bound to perform the same, such sum as the Treasury, with the concurrence of the Lord Chancellor, shall from time to time order and direct:

(4.) Such sums as may from time to time be allowed under the provisions of this Act for clerical assistance and other office expenses, same to be paid to the persons and in the manner to be specified by the Treasury when ordering such payments:

(5.) To the different persons entitled thereto as having held the office of Clerk of the Crown and Peace the amounts which shall from time to time be payable to them respectively under the provisions of this Act by way of pension or superannuation.

Certain provisions of this Act to apply to the present Registrar of Civil Bills in the city of Dublin. 14 & 15 Vict. c. 57. s. 154.

17. The provisions of this Act as to special pensions shall apply to the person at the time of the passing of this Act holding the office of Registrar of Civil Bills for the city of Dublin as if he were a Clerk of the Peace, and until the office of such registrar shall become vacant by the retirement of such registrar or otherwise, it shall be lawful for the Lord Lieutenant, with the consent of the Treasury, to appoint a person duly qualified under this Act to be additional registrar for the said city of Dublin, and in case the office of such Registrar of Civil Bills shall become vacant before the final consolidation of the offices of Clerk of the Crown and Clerk of the Peace in said county of the city of Dublin, it shall be lawful for the Lord Lieutenant, with the consent of the Treasury, to appoint a person (herein-before referred to as "the temporary registrar for the city of Dublin"), duly qualified as aforesaid, to act as a temporary registrar, and who shall discharge all the duties which the Registrar of Civil Bills for the city of Dublin at any time may lawfully be required to perform, and who shall take and receive all the fees and emoluments which the said registrar is now entitled to take and received: Provided always, that upon the consolidation of the offices of Clerk of the Crown and Clerk of the Peace for the county of the city of Dublin, and upon the death or retirement of the person at the time of the passing of this Act holding the office of Registrar of Civil Bills for the city of Dublin, the said office shall cease and determine, and all acts, duties, and functions which are now by law imposed upon such registrar shall be done and performed by the Clerk of the Crown and Peace for the county of the city of Dublin, and all the fees and emoluments which the said registrar is now entitled to take and receive shall thenceforth be paid into the receipt of Her Majesty's Exchequer in like manner as the fees and emoluments receivable by or payable to the several persons now holding the offices of Clerk of the Crown or Clerk of the Peace in the several counties and boroughs in Ireland are by this section directed upon the consolidation of the said offices to be paid.

Provisions of 12 & 13 Vict. c. 97. regarding the Clerk of the Peace of the county

18. Pending the consolidation of the offices of Clerk of the Crown and Clerk of the Peace for the county of the city of Dublin, the provisions of the Act of the session of the twelfth and thirteenth years of Her present Majesty, chapter ninety-seven, affecting the

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of the city of Dublin to continue in force until consolidation effected.

person now holding the office of Clerk of the Peace for the said county of the city of Dublin, shall continue as at present in force, and shall be deemed to apply to any person who may hereafter be appointed temporary Clerk of the Peace for the said county; but so soon as such consolidation shall have been effected, the provisions as to the appointment, duties, liabilities, salary, and pension herein-before made for the consolidated office of the Clerk of the Crown and Peace shall apply to and affect the Clerk of the Crown and Peace for the county of the city of Dublin, and all the fees and emoluments for which the Clerk of the Peace for the said county is by the fifty-sixth section of the said Act required to account shall be paid into the receipt of Her Majesty's Exchequer in like manner as the fees and emoluments receivable by or payable to the several persons now holding the offices of Clerk of the Crown or Clerk of the Peace in the other counties and boroughs of Ireland are by this Act directed upon the consolidation of said offices to be paid.

Provision as to clerkship of the peace in boroughs in which there is no Clerk of the Crown.

19. If at the time of the passing of this Act the office of Clerk of the Peace shall exist in any borough in which the office of Clerk of the Crown shall not exist, the several provisions herein-before made as to Clerks of the Peace, so far as practicable, including the power of the Lord Lieutenant to appoint, if necessary, an additional registrar, shall be applied to and shall regulate the office of such Clerk of the Peace and the duties thereof; and upon any vacancy in said office it shall be lawful for the Lord Lieutenant, with the consent of the Treasury, from time to time to appoint a fit and proper person duly qualified as by this Act provided to fill the same.

General rules to be made.

20. The Lord Chancellor may, with the concurrence of the Lords Commissioners of the Treasury, from time to time make such general rules as shall seem to him expedient for the purpose of carrying into effect the provisions of this Act, and may from time to time amend and vary the same as occasion shall require.

SCHEDULE.

Act.	Extent of Repeal.
1 Geo. 4. c. 27. - - -	The whole Act.
14 & 15 Vict. c. 57. - - -	Secs. 12.

Clerk of the Peace and of the Crown (Ireland).

A

B I L L

To provide for the Union of the Offices of Clerk of the Peace and Clerk of the Crown in Ireland, and for other purposes relating thereto.

(*Prepared and brought in by Mr. Solicitor General for Ireland and Sir Michael Hicks Beach.*)

Ordered, by The House of Commons, *to be Printed*, 30 *March* 1876.

[Bill 119.]

Under 2 oz.

Coast and Deep Sea Fisheries (Ireland) Bill

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title of Act.
2. Commencement of Act.
3. Lord Lieutenant may appoint commissioners for the Irish fisheries.
4. Commissioners to be a corporation.
5. Power to appoint officers.
6. Commissioners to make reports to the Lord Lieutenant and to Parliament.
7. Commissioners to hold office during pleasure.
8. Power to make byelaws.
9. Committees may be appointed.
10. Power over officers.
11. Byelaws for regulation of the fisheries.
12. Commissioners to hold inquiries.
13. Byelaws to be laid before Parliament.
14. Byelaws to have the force of law.
15. Penalties for violation of byelaws.
16. Coast to be divided into districts.
17. Fishing vessels to be licensed.
18. Licensing officers to be appointed.
19. Statement to be lodged.
20. Penalty on fishing without license.
21. Licenses may be revoked.
22. Powers of inspectors of salmon fisheries preserved.
23. Powers of inspectors as to deep-sea fisheries vested in Commissioners.
24. Admiralty to appoint superintendent.
25. Duties of superintendent: power to enter fishing vessels.
26. Chief officer to be appointed for each district.
27. Commissioners to brand casks for exportation.
28. Appointment of branding stations.

Clause.

29. Casks after examination to be branded.
30. Commissioners to make regulations for branding.
31. Branding officers to be appointed.
32. Commissioners may dismiss officers.
33. After years fees may be charged for branding.
34. Commissioners to have charge of reproductive loan fund.
35. Commissioners to make loans.
36. Advance to be made by Treasury.
37. Piers and harbours to be vested in Commissioners.
38. Lord Lieutenant to transfer fishery piers from Board of Works to Commissioners.
39. Annual sum to be advanced by Treasury.
40. To be expended on fishery piers.
41. Grand jury may exercise powers of borrowing.
42. Loans repaid may be re-lent.
43. Board of Works to advance money.
44. Engineer to be appointed.
45. Provision for salaries and expenses.
46. Penalty on forgery of brand.
47. Penalty for altering or effacing marks.
48. Lords Justices may do acts.
49. Interpretation clauses.
50. Definition of fishings affected by Act.

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B I L L

FOR

The regulation and encouragement of the Coast and Deep Sea Fisheries of Ireland. A.D. 1876.

WHEREAS the improvement and encouragement of the Irish fisheries are objects of great importance, not only to Ireland, but to the wealth and commercial prosperity and naval strength of the United Kingdom:

And whereas the system established in Scotland for the regulation of the sea fisheries has been found by experience to have produced great advantages to that portion of the United Kingdom, and it is just and expedient to establish a system similar in its principles in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title of Act.

1. This Act may be cited on all occasions and for all intents and purposes as "The Deep Sea Fisheries (Ireland) Act, 1876."

Commencement of Act.

2. This Act shall, except as to any act herein-after required or authorised to be done before that day, come into operation on the *first day of January one thousand eight hundred and seventy-seven*, the period herein-after referred to as the commencement of this Act.

Lord Lieutenant may appoint commissioners for the Irish fisheries.

3. Immediately after the passing of this Act it shall be lawful for the Lord Lieutenant under his hand and seal, from time to time to nominate and appoint fifteen persons to be commissioners specially for overseeing, directing, and improving the deep sea and coast fisheries of Ireland, to be called the Commissioners of the

A.D. 1876.

Irish Sea Fisheries, with power to them, or any number of them, by the instrument of appointment to be determined, to execute or cause to be executed the provisions of this Act in manner herein mentioned.

Commissioners to be a corporation.

4. The Commissioners so appointed, and their successors appointed as herein-after mentioned, shall be incorporated by the name of the Commissioners of Irish Sea Fisheries, and shall by that name be capable of suing and being sued, they shall have a common seal, be capable of holding property, with all other the rights and powers incident by law to bodies corporate.

Power to appoint officers.

5. For the purpose of carrying this Act into execution, it shall be lawful for the said Commissioners at any time after their appointment to appoint a secretary, and such clerks and other officers under them, (such secretary, clerks, and other officers being first approved of by the Lord Lieutenant or other chief governor or governors of Ireland for the time being,) as they the said Commissioners of Irish Sea Fisheries shall think fit: Provided always, that no appointment to any such office shall be made unless and until the Lords Commissioners of Her Majesty's Treasury shall have signified their assent to the proposal for making an appointment to such office, and of the salary proposed to be annexed to such office.

Commissioners to make reports to the Lord Lieutenant and to Parliament.

6. The said Commissioners of the Irish Sea Fisheries to be appointed by virtue of this Act shall and they are hereby required to deliver or cause to be delivered annually, on or before *the first day of January* in every year, to the Lord Lieutenant or other chief governor or governors of Ireland for the time being, a full and accurate report of their proceedings for the year preceding; and shall also cause to be laid before both Houses of Parliament, within fourteen days after the sitting of each House next ensuing such first day of January, a copy of every such report, under their seal, and signed by their secretary.

Commissioners to hold office during pleasure.

7. The Commissioners shall hold their appointment during the pleasure of the Lord Lieutenant; and on the death, resignation, or removal of any of them, the Lord Lieutenant shall, by warrant under his hand and seal, appoint another person in the room of the Commissioner so dying, resigning, or being removed.

Power to make bye-laws.

8. At a meeting or meetings to be held as soon as conveniently may be after their appointment, the Commissioners shall frame rules and regulations for their meetings, and the transaction of business; and such rules, upon being approved of by the Lord Lieutenant, shall be the rules regulating all such matters: Provided always,

that the Commissioners may at any time, and with the like approbation, alter, vary, repeal, or add to such rules, or adopt other and different ones in their stead.

Committees may be appointed.

9. The Commissioners may by such rules if they shall so think fit, direct that any portion of the business intrusted to them by this Act may be transacted by a committee of their body, to be appointed in such manner and acting in such manner as such rules may prescribe.

Power over officers.

10. The Commissioners shall have power from time to time to prescribe and regulate the duties of all officers appointed by them, and to dismiss any of such officers, when they shall so think fit.

Byelaws for the regulation of the fisheries.

11. The Commissioners shall have power, at any time after their appointment, and from time to time as occasion may require, to make and promulgate any reasonable byelaw or byelaws regulating the mode and manner and time in which fishing shall be carried on in any of the estuaries, deep sea, and tidal waters adjoining the Irish coast, and prohibiting such fishing, at any time or in any manner which may appear to them injurious to the fisheries; and they may by any such byelaw or byelaws regulate the size of the nets and meshes of the nets or other instruments to be used in such fishing, and make such regulations as to the management of the vessels engaged in such fishing, and of the conduct in the course of fishing of the crew and other men employed therein, and generally as to all matters connected with the fishing for, taking, selling, or otherwise disposing of such fish, as may appear to them necessary for the protection of the fishery, and also from time to time by any such new byelaw to vary, alter, or repeal any previous byelaw, or to substitute a new byelaw; and it shall be lawful for them, in any such byelaw, or altered or substituted byelaw, if they shall so think fit, to impose as a penalty for its violation a fine not exceeding *twenty pounds*, or imprisonment not exceeding *three months;* but no byelaw made by them under the authority of this section shall be of any force or effect unless and until same shall be approved of by the Lord Lieutenant and Privy Council, and such notice shall be given of every such byelaw before being approved of by the Privy Council, as the Lord Lieutenant may by Order in Council direct.

Commissioners to hold inquiries.

12. Whenever they shall think fit, or whenever the Lord Lieutenant shall direct, the Commissioners shall, before passing such byelaw, or at any time before same is approved of by the Privy Council, hold an inquiry in relation to the advisability or propriety of such byelaw, in such manner and in such place as they may think fit, or the Lord Lieutenant may direct.

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Byelaws to be laid before Parliament.

13. *After the commencement of this Act* every byelaw so approved of shall have the force and effect of law, and its violation be punished by the penalties, herein-after mentioned: Provided always, that every such byelaw shall, within *one week* after being approved of by the Lord Lieutenant and Privy Council, be laid before both Houses of Parliament, if Parliament be then sitting, and if not, within one week of its next re-assembling; and if either House of Parliament shall, within *thirty days*, exclusive of any days during which time it shall not sit, or if Parliament be not sitting at the end of such thirty days, then within thirty days from the commencement of the next session, present an address to Her Majesty disapproving of such byelaw, then and in that case from the time of the presentation of such address such byelaw shall be of no further force and effect.

Byelaws to have the force of law.

14. All byelaws so made and approved of shall, until same are altered, repealed, or annulled in manner hereafter mentioned, have the same force and effect as if they were contained in this Act, and shall be observed by all persons to whom same apply.

Penalties for violation of byelaws.

15. Any person violating any such byelaws shall be guilty of a misdemeanour, and on being convicted thereof may be punished by fine or imprisonment at the discretion of the court, or upon summary conviction before two justices of the peace in the manner prescribed by the Petty Sessions, Ireland, Act, with imprisonment not exceeding *six months*, or a fine not exceeding *fifty pounds*: Provided always, that wherever by any byelaw any punishment is imposed for such offence pursuant to the provisions herein-before contained, no greater or other punishment shall be inflicted upon any person convicted, either on indictment or summarily, than that mentioned in the byelaw, and where such byelaw shall impose only a pecuniary penalty the punishment of imprisonment shall not be imposed.

16. The Commissioners shall, as soon as conveniently may be after their appointment, divide the coast of Ireland into such and so many districts as may to them appear necessary and expedient, and shall by an order under their seal, with the approbation of the Lord Lieutenant, define and fix the limits of such districts; and it shall be lawful for them at any time, and from time to time, by like order, and with the like approbation, to vary the number and limits of such districts as may appear to them to be fit.

Fishing vessels to be licensed.

17. No vessel of any kind or description the burden of which shall exceed five tons shall be employed in fishing in any estuary or any waters adjoining the coast of Ireland unless and until a license for such vessel shall be obtained for such vessel from the

Commissioners of Irish Sea Fisheries. Every license so granted by the Commissioners shall be in force for a period of twelve months and no longer.

Licensing officers to be appointed.

18. For the purpose of granting such licenses the Commissioners shall appoint such and so many persons, resident in seaport towns, as they may think fit, with power and authority to grant same; and every owner or other person employing such vessel for the purpose of fishing shall be entitled to obtain such license on lodging with any of such officers, or, if he shall so think fit, with the secretary of the Commissioners, a statement of the particulars herein-after mentioned, and paying for such license such sum as the Commissioners may determine, not exceeding *one shilling* for each ton of the burden of such vessel.

Statement to be lodged.

19. The statement so to be lodged shall state the name and residence of the person or persons proposing to employ such vessel in fishing, the number of men and boys respectively to be employed in same, and the name of the master of the vessel, the tonnage of the vessel, and shall be accompanied by a copy of the register of such vessel.

Penalty on fishing without license.

20. Any person who shall use or employ any vessel whose burden shall exceed five tons in any of the fishings regulated by this Act without having obtained the license hereby required, shall forfeit and pay to the Commissioners for such and every time the vessel is so employed the sum of pounds; and such sum may be recovered, in addition to the means in this Act provided, by action in any of the superior courts of law in England or Ireland, or in the Court of Session in Scotland, and may be recovered either from the owner or owners or from the master or person acting as master of such vessel, or from any person employing or using same in such fishing.

Licenses may be revoked.

21. It shall be lawful for the Commissioners, if they shall think fit, to revoke the license granted for the use of any vessel if any person acting under any such license shall, after the grant of such license, be three times convicted of any offence against the provisions of this Act; and if it shall at any time appear to the Commissioners, by report of their officers or otherwise, that any such vessel is in such condition or is so worked as to be dangerous to the lives of the persons employed therein, it shall be lawful for the said Commissioners to hold an inquiry into the sufficiency of the condition or mode of working of such vessel by a person or persons appointed for that purpose by the Lord Lieutenant; and if upon such inquiry the person or persons holding such inquiry shall

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report that such vessel is in such condition or is so worked as to be dangerous to the lives of the persons employed therein, it shall be lawful for the said Commissioners either to revoke the license, or to allow same to continue in force upon such terms and conditions as to the repairs or future working of the vessel as they shall think fit.

Powers of inspectors of salmon fisheries preserved.

22. Nothing herein contained shall interfere with the power of the inspectors of Irish fisheries to make such regulations as they are by any statute empowered to do to regulate the taking of salmon in any of the estuaries or tidal waters in Ireland.

Powers of inspectors as to deep sea fisheries vested in Commissioners.

23. From and after the commencement of this Act all other power relating to the fisheries in the deep sea or in the estuaries or tidal waters on the coast of Ireland now vested in the inspectors of Irish fisheries shall be vested in and be exercised by the Commissioners under this Act; and, unless where it is otherwise hereby provided, the powers conferred by this Act shall be deemed to be in addition to and not in substitution for those hitherto exercised by the said inspectors of Irish fisheries.

Admiralty to appoint superintendent.

24. And be it further enacted, that it shall be lawful for the Lords Commissioners of the Admiralty, upon the application of the said Commissioners of the Irish Sea Fisheries, to appoint one or more commissioned officer or officers in Her Majesty's navy as superintendent or superintendents of the fishery described in this Act, for the purpose of causing the same to be carried on according to the regulations of this Act, and also as well for preserving order among the persons employed therein as for protecting them and their vessels against violence, and under such orders, rules, and regulations as shall be made in that behalf by the Lords Commissioners of the Admiralty; and every person so appointed superintendent shall proceed annually with a proper vessel or vessels of sufficient force to such place and to arrive at such time as the Commissioners may, with the sanction of the Lords Commissioners of the Admiralty, appoint.

Duties of superintendent.

25. Every person so to be appointed superintendent shall exercise his office within the district or districts named in his appointment, and shall remain with his vessel within such district or districts during the time fixed for his appointment, and shall do and execute all such things and orders as he may be reasonably required by the Commissioners under the regulations laid down for him by the Commissioners of the Admiralty; he shall prevent all vessels from fishing in any manner inconsistent with the byelaws in that

behalf made by the Commissioners; and for this purpose it shall be lawful for any superintendent of the said fisheries, or any person or persons acting by his orders, at all times whenever he shall think fit, either at sea or in any loch or bay, or on the coast, during the continuance of the fishery, or after the return from the fishery, to go on board any of the vessels employed in the fishery placed under his superintendence, to inspect the license and certificate of registry of such vessel; and such superintendent is hereby empowered to detain any such vessel, and to examine whether the master and other persons on board the same are in all respects carrying on and prosecuting the said fishery in the manner required by the byelaws of the Commissioners; and if any person or persons shall impede or obstruct, or attempt to impede or obstruct, any other person or persons in the lawful prosecution of the said fishery, such superintendent shall require such person or persons so impeding or obstructing, or attempting to impede or obstruct, any other person or persons, to desist from so doing; and if such person or persons so required to desist shall disregard such requisition, it shall be lawful for such superintendent to employ such force as shall be necessary to compel him or them to preserve order. If the master or any part of the crew is not or shall not be in all respects carrying on and prosecuting the fishery in the manner hereby required, or had impeded or obstructed, or attempted to impede or obstruct, any other person or persons in the lawful prosecution of the said fishery, such superintendent shall report the same fully and particularly to the said Commissioners of the Irish Sea Fisheries, and shall deliver one copy of such report under his hand to the master of such vessel, and shall transmit another copy to the said Commissioners by the first opportunity; and if any person or persons shall resist or obstruct any such superintendent, or any person or persons acting under him, in the execution of any of the powers to him or them given by this Act, every person so offending shall forfeit and pay the sum of ten pounds.

Power to enter fishing vessels.

26. Of the officers to be appointed by the Commissioners under the provisions herein-before contained, one at least shall be appointed for each district, to be called and known as the chief officer of fisheries for such district. The person so appointed shall reside within the district in such place as the Commissioners may appoint; he shall discharge all such duties as to the execution of this Act, and generally as to the inspection, improvement, and encouragement of the fisheries, as the Commissioners may direct; and he shall from time to time make to the Commissioners reports

Chief officer to be appointed for each district.

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upon all matters connected with the fisheries within his district, and the improvement and encouragement of same, as the Commissioners may from time to time desire and direct.

Commissioners to brand casks for exportation.

27. And whereas it is expedient that the exporters of fish taken and cured in Ireland should have the same advantage of exporting the same in barrels, casks, or other vessels branded with a mark denoting that the fish contained in such vessels have been duly and properly cured, and are fit for exportation, as is now enjoyed by exporters in Scotland; and it is also just and expedient that for the time herein-after mentioned such mark should be branded after careful examination, without any cost to the exporter, as same was for many years done for persons exporting fish taken and cured in Scotland: Be it therefore enacted, That after the commencement of this Act it shall be lawful for the Commissioners, and they are hereby required, by officers duly appointed by them for that purpose, to brand with a mark denoting that the fish contained in such vessel are properly cured and fit for exportation, all barrels, casks, and other vessels containing fish which shall be so packed and cured as upon examination shall be found to be properly cured and packed, and in such manner as to be fit for exportation.

Appointment of branding stations.

28. For the purpose of such branding the Commissioners shall appoint such and so many places as may, in their judgment, be necessary or convenient to be branding stations under this Act; and no place shall be appointed a branding station, except with the approval of the Lord Lieutenant, upon a certificate under the seal of the Commissioners, stating that, in their opinion, after full examination, it is proper and necessary to appoint a branding station at such place.

Casks after examination to be branded.

29. Subject to the regulations herein-after mentioned, any person who shall bring to the officer appointed for that purpose at any branding station any barrel, cask, or vessel containing cured herrings, pilchards, sprats, or any other species of fish which the Commissioners shall by any rule made under their seal from time to time direct, which shall be properly cured and packed, so as, in the judgment of the officers appointed to examine same, to be in a state fit and proper to be exported, shall be entitled to have branded upon such barrel, cask, or vessel a mark, in such form and manner as the Commissioners may direct, denoting that same has been approved of by the proper officer, and also denoting the weight or quantity of fish contained in such vessel, and the species of fish contained in same.

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Commissioners to make regulations for branding.

30. The Commissioners shall be and they are hereby empowered to prescribe all such reasonable regulations as to the inspection and examination of the sufficiency of the curing and packing of the fish contained in the vessels so brought to be branded, and as to the other matters denoted by the brand, but it shall not be lawful for them to prescribe any particular mode of curing or packing as necessary for the obtaining of the brand; and all such regulations made by the Commissioners shall be so made subject to the approval of the Board of Trade.

Branding officers to be appointed.

31. The Commissioners shall, with the approval of the Lord Lieutenant, fix and declare the number of officers to be employed by them in and about the inspection, examination, and branding of the barrels, casks, or other vessels so brought to them to be branded; and they shall assign to such officers such salaries as they, with the approval of the Commissioners of the Treasury, shall think fit; and thereupon it shall be lawful for the Lord Lieutenant, on the recommendation of the Commissioners, to appoint fit and proper persons to be so employed, and especially to appoint persons at the respective places on the coast of Ireland appointed as branding stations by the Commissioners, and also, if it shall so seem expedient, at all places where herrings and other fish are caught or cured, and at the ports or places where vessels employed in the said fishery usually discharge their cargoes, and to overlook, if so called on, the curing of all herrings caught, and other fish, and to inspect and take account of all fish landed or exported, and to certify whether the fish are properly pined, cured, and packed, so as to be entitled to the brand herein-before mentioned, or fit to be exported: Provided always, that no person shall be appointed an officer for the performance of any of those duties unless such person shall have exercised the trade of a cooper, and been employed in the curing and packing of herrings, and shall be skilful therein, and fully qualified to execute the duties which will be required of him under the provisions of this Act, certificates of which qualifications shall be transmitted to the Lord Lieutenant, by such persons and in such manner as shall be satisfactory to the said Lord Lieutenant, together with a certificate from the Commissioners, that after full and due examination they are satisfied that such person is fully qualified to discharge such duties; and every such officer so to be appointed shall obey such instructions, orders, or directions as he shall from time to time receive from the Commissioners to be appointed by virtue of this Act, signified under the hand of their secretary.

Commissioners may dismiss officers.

32. And be it further enacted, that every officer of the fishery to be appointed as in last preceding section mentioned shall be

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liable to be suspended or dismissed from his office or employment respectively, by the Commissioners, either for incompetency or for neglect of duty: Provided always, that every such officer of the fishery shall, previous to his entering upon the duties of his office, take and subscribe the following oath:

'I *A.B.* do swear, that I will faithfully and honestly, according to 'the best of my skill and judgment, execute the office and trust 'committed to me, of [*the name of the officer to be here mentioned*] 'and that I am not, directly or indirectly, concerned as an adven- 'turer in the White Herring Fishery, or in any other fishery, or as 'a curer of fish; nor will I, so long as I shall continue to act as '[*the name of the office to be here mentioned*], be concerned, either 'directly or indirectly, as an adventurer in the said fishery, or as a 'curer of fish.

'So help me GOD.'

Which oath any one of the said Commissioners may administer to such officer.

After years fees may be charged for branding.

33. For years after the passing of this Act no charge shall be made to any person for the inspection, examination, or branding of any barrels, casks, or other vessels of fish under this Act. After the expiration of years, unless Parliament shall otherwise provide, such fee shall be charged for same as the Commissioners of the Treasury may direct; and all the fees so received shall be paid by the Commissioners into the Exchequer, and form part of the Consolidated Fund.

Commissioners to have charge of reproductive loan fund.

34. And whereas it is expedient that loans should be made to the fishermen engaged in the deep-sea fishery, in order to enable them to provide themselves with suitable boats and gear, and that such loans should be made under the superintendence of the Commissioners hereby appointed: From and after the commencement of this Act, all the powers vested in the inspectors of Irish fisheries by the Reproductive Loan Fund Act, 1874, as to the funds mentioned in that Act, shall be vested in and exercised by the Commissioners under this Act.

Commissioners to make loans.

35. It shall be lawful for the Commissioners, with the approval of the Lord Lieutenant, from time to time to ordain such rules and regulations as may appear to them to be proper and expedient for the making of loans under this Act, and providing for the security to be taken for same, the mode of repayment thereof, the ensuring that they shall be applied to the purposes for which they are intended, and all other matters connected with the loan; and it shall be lawful for them, if they shall so think fit, by such regu-

lations to prescribe that such loans may be made for the erection of curing houses, the providing of the means of transport of the fish caught, or for any purpose connected with the improvement of the fisheries on such terms and conditions as may be thought fit, and it shall be lawful for the Commissioners to make such loans in accordance with such regulations out of any moneys that may be in their hands for or applicable to such purposes.

Advance to be made by Treasury.

36. *For the purpose of enabling the Commissioners to make such loans, it shall be lawful for the Commissioners of the Treasury, and they are hereby required, within one month after the commencement of this Act, to pay and advance to the Commissioners, out of the growing produce of the Consolidated Fund of the United Kingdom, the sum of twenty thousand pounds to be applied by the said Commissioners in making such loans in accordance with the provisions of this Act.*

Piers and harbours to be vested in Commissioners.

37. And whereas it is expedient that the control and care of all fishery piers in Ireland shall be vested in the Commissioners appointed under this Act: From and after the commencement of this Act all piers which by an Act passed in the seventeenth year of Her Majesty the now Queen, intituled "An Act for enabling "Grand Juries in Ireland to borrow money from private sources on "the security of presentments, and for transferring to counties "certain works constructed wholly or in part with public money," were vested in the grand jury of any county in Ireland, shall become and be vested in the Commissioners, who shall keep same in repair, and pay all expenses connected with their superintendence and management out of any monies that may be in their hands applicable to such purposes.

Lord Lieutenant to to transfer fishery piers from Board of Works to Commissioners.

38. And whereas there are now vested in the Commissioners of Public Works several piers and harbours on the coast of Ireland, the custody and care of which might be properly and conveniently transferred to the Commissioners of Irish Sea Fisheries: It shall be lawful for the Lord Lieutenant, by and with the advice of the Privy Council, by an order made before the commencement of this Act, to decide that the piers and harbours named in such order shall be transferred to and vested in the Commissioners of Irish Fisheries, and from and after the commencement of this Act all the piers and harbours named in such order shall be vested in the Commissioners of Irish Deep Sea Fisheries.

Annual sum to be advanced by Treasury.

39. *For the purpose of enabling new works to be undertaken for the erection of new fishery piers, or the enlargement or improvement of existing piers, there shall be annually issued to the Commis-*

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sioners out of the growing produce of the Consolidated Fund a sum of five thousand pounds to be by them applied as herein-after mentioned.

To be expended on fishery piers.

40. *It shall be lawful for the said Commissioners to apply the said sum, and such other sums as may come into their hands applicable to such purpose, in aid of the erection, improvement, and enlargement of fishery piers, either by way of grant or loan; and it shall be lawful for the Commissioners, with the approval of the Lord Lieutenant, to make such rules as they may think fit, regulating the terms and conditions upon which aid shall be given to any proposed work, either by way of grant or loan: Provided always, that in any case in which they shall think it fit, for special reasons, so to do, the Commissioners may, with the approval of the Lord Lieutenant, take upon themselves the entire cost of the erection of any new pier, or the enlargement or improvement of any existing pier.*

Grand jury may exercise powers of borrowing.

41. All statutes now in force enabling grand juries to secure by presentment any loans or advances made for the erection or improvement of piers shall be applicable to any loans to be made by the Commissioners under this Act; and all the powers conferred upon grand juries by any statute enabling them in that behalf may be exercised in relation to any such loans.

Loans repaid may be re-lent.

42. *When any loan made under the authority of this Act, or any portion of it, is repaid to the Commissioners, it shall be lawful for them to apply the money so repaid in the same manner as they are hereby authorised to apply the sums to be annually paid to them out of the Consolidated Fund.*

Board of Works to advance money.

43. Notwithstanding anything contained in this Act, it shall be lawful for the Commissioners of Public Works in Ireland to advance or lend money for the construction, erection, or repair of fishery piers in Ireland in the same manner as if this Act had not been passed; and, if they shall so think fit, with the approbation and consent of the Lord Lieutenant, to advance same on the recommendation of the Commissioners of Irish Sea Fisheries, and to advance such monies to be expended under the control and direction of the said last-mentioned Commissioners.

Engineer to be appointed.

44. It shall be lawful for the Lord Lieutenant to appoint a fit and proper person to be engineer to the said Commissioners, *with such salary and allowances, and upon such terms, as he may, with the approval of the Commissioners of the Treasury, direct.* The engineer so appointed shall act under the directions of the Commissioners, and shall be removable by them for incompetence or misconduct.

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Provision for salaries and expenses.

45. *The salaries of all officers appointed under this Act, the expense of maintaining and superintending the fishery piers hereby vested in the Commissioners, and all expenses incurred by the Commissioners in the execution of this Act, shall be defrayed out of such moneys as Parliament may from time to time for that purpose provide.*

Penalty on forgery of brand.

46. And be it further enacted, That if any person, other than an officer of the fishery, or not being authorized by or without the presence of such officer, shall fraudulently burn or brand or cause to be burnt or branded, or have in his custody or possession any instrument for the purpose of burning or branding on any barrel or cask of herrings or other fish any mark or marks, character or characters, which by virtue of this Act shall be appointed or directed to be burnt or branded, by order and in presence of such officer, or any mark or character in imitation thereof; or if any person shall place in any barrel, cask, or other vessel, after same has been branded, any fish or other material not contained in such vessel at the time of its branding, or shall recover from same any fish contained in it when branded, and shall afterwards use such barrel for the purpose of selling or exporting its contents, every person so offending shall, on being convicted thereof before the justices in petty sessions of the county where the offence shall be committed or the offender found, for every such offence forfeit and pay a sum of money not exceeding fifty pounds, or suffer imprisonment for any time not exceeding six months; and every barrel or cask on which any such mark or character shall be fraudulently burnt or branded as aforesaid, with the fish therein contained, and every instrument which shall be in the possession of any person for the purpose of fraudulently burning or branding the same, shall be forfeited, and shall and may be seized by any officer of the fishery, customs, or excise.

Penalty for altering or effacing marks.

47. And be it further enacted, that if any mark set or branded on any barrel, cask, or other vessel by any officer or officers of the fishery, pursuant to this Act, or to any rules or regulations which shall be made by the aforesaid Commissioners, shall be altered or defaced, every such barrel, cask, or other vessel, with the fish therein contained, shall be forfeited, and shall and may be seized by any officer of the fishery.

Lords Justices may do acts.

48. All matters and things which by this Act are authorised or required to be done by the Lord Lieutenant shall and may be done by the Lords Justices or Lord Deputy or other the Chief Governor or Governors of Ireland for the time being.

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Interpretation clauses.

49. The words "the Commissioners," when used in this Act, shall mean, unless the context otherwise requires it, the Commissioners of Irish Sea Fisheries appointed under this Act:

"Commissioners of the Treasury" shall mean the Lord High Treasurer or the Commissioners for executing the office of Lord High Treasurer:

"Commissioners of the Admiralty" shall mean the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral:

"The Board of Trade" shall mean the Committee of the Lords of Her Majesty's most Honourable Privy Council for Trade and Plantations.

Definition of fishings affected by Act.

50. The fishings and fisheries included in and affected by the provisions of this Act are hereby declared to be all fishings for any kind of fish, whether shell fish or otherwise, carried on in any manner or by any means whatever in the deep sea, tidal waters, or estuaries in or adjoining to the coast of Ireland, except the fishings for salmon carried on in the estuaries or other tidal waters under the control of the inspectors of Irish fisheries by virtue of any of the statutes in that case made and provided.

of [Bill 9.] *already delivered.*

Coast and Deep Sea Fisheries (Ireland).

A

B I L L

For the regulation and encouragement of the Coast and Deep Sea Fisheries of Ireland.

(*Prepared and brought in by Dr. Ward, Mr. Butt, Mr. Collins, and Sir Joseph M'Kenna.*)

Ordered, by The House of Commons, *to be Printed,* 9 *February* 1876.

[Bill 9.]

Under 3 *oz.*

A

BILL

TO

Remove Doubts with reference to certain Colonial Marriages. A.D. 1876.

WHEREAS laws have been recently passed in certain British colonies legalising the marriage of a man with the sister of his deceased wife, and such laws have been duly sanctioned by the Imperial Government:

And whereas similar laws may be hereafter passed in other British colonies, and such laws may be sanctioned as aforesaid:

And whereas doubts have arisen as to the status and legitimacy and rights of inheritance and succession within the United Kingdom of the issue of such marriages; and it is just and expedient that such doubts should be removed, and that the legitimacy of such issue for all purposes should be distinctly affirmed and declared:

Be it enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same:

As to issue of marriages in certain colonies.

1. That the issue of all such marriages as have been or shall be hereafter contracted by persons domiciled in colonies where such marriages are lawful shall have and enjoy all such rights of inheritance, succession, and otherwise, within the United Kingdom, as they would have been entitled to had they been the issue of parents lawfully married in the United Kingdom.

Colonial Marriages.

A

BILL

To remove Doubts with reference to certain Colonial Marriages.

(*Prepared and brought in by Sir Thomas Chambers, Dr. Cameron, and Mr. Young.*)

Ordered, by The House of Commons, *to be Printed*, 24 *February* 1876.

[Bill 87.]

Under 1 *oz.*

Commons Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.

PART I.

LAW AS TO THE REGULATION AND INCLOSURE OF COMMONS.

Applications in relation to Commons.

2. Alternative provisional order for regulation or inclosure of commons.
3. "Regulation of common" includes adjustment of rights and improvement.
4. Explanation of adjustment of rights.
5. Explanation of improvement.
6. "Inclosure" means inclosure in manner provided by the Inclosure Acts.
7. Provisions for the benefit of a neighbourhood applicable alike to orders for regulation and orders for inclosure.

Suburban Commons.

8. Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

Procedure.

9. Issue of forms by Commissioners.
10. Rules as to application to Commissioners.
    - (1.) Publication of notices of application.
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B I L L

FOR

Facilitating the regulation and improvement of Commons, and for amending the Acts relating to the Inclosure of Commons. A.D. 1876.

WHEREAS by the Inclosure Acts, 1845 to 1868, upon the application and with the consent of such of the persons interested in any common as in the said Acts in that behalf specified, the Inclosure Commissioners are empowered by provisional order under their seal to authorise the inclosure of such common, provided such inclosure is made on such terms and conditions as may appear to the Commissioners to be proper for the protection of any public interests, and provided also that the Commissioners are of opinion that such inclosure would be expedient, having regard as well to the health, comfort, and convenience of the inhabitants of any cities, towns, villages, or populous places in or near any parish in which the land proposed to be inclosed, or any part thereof, may be situate (herein-after included under the expression the benefit of the neighbourhood), as to the advantage of the persons interested in the common to which such application relates (herein-after included under the expression private interests); but such provisional order is of no validity until and unless the Commissioners have in a report to be laid before Parliament certified that in their opinion the inclosure of such common, if made on the terms and conditions in their provisional order expressed, would be expedient, having regard to the benefit of the neighbourhood as well as to such private interests as aforesaid, nor until and unless an Act of Parliament has been passed confirming such order and affirming such certificate as aforesaid, and directing that the proposed inclosure of the common should be proceeded with accordingly: Preamble. 8 & 9 Vict. c. 118. ss. 26, 27.

And whereas by the said Inclosure Acts, information is required to be supplied and inquiries to be made for the purpose of enabling the Inclosure Commissioners to judge of such expe-

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diency as aforesaid, but it is desirable to make further provisions for bringing under the notice of the said Commissioners, and of Parliament, any circumstances bearing on the expediency of allowing the inclosure of a common, regard being had, as directed by the said Inclosure Acts, to the benefit of the neighbourhood as well as to private interests:

8 & 9 Vict. c. 118. s. 30.

And whereas by the said Inclosure Acts the Commissioners are empowered in the case of a common being waste land of a manor to require, and in their provisional order to specify as one of the conditions of inclosure, the appropriation of an allotment for the purposes of exercise and recreation by the inhabitants of the neighbourhood, and also of an allotment for the labouring poor, and it is expedient to give further effect to the provisions relating to the said allotments (in this Act referred to as allotments for recreation grounds and field gardens):

And whereas it is expedient to give further facilities for enabling the Inclosure Commissioners to regulate, improve, stint, and otherwise deal with commons without wholly inclosing and allotting the same in severalty:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as the Commons Act, 1876.

Part I.

Law as to the Regulation and Inclosure of Commons.

Applications in relation to Commons.

Alternative provisional order for regulation or inclosure of commons.

2. The Inclosure Commissioners may entertain an application made in manner in this Act mentioned for a provisional order—

(1.) For the regulation of a common; or

(2.) For the inclosure of a common;

Further, an application may be made as respects the same common for the regulation of part of such common, specifying the part to be regulated, and for the inclosure of the residue, and in such case the application shall be dealt with as respects such parts as

if they were separate commons, with this exception, that the boundaries as proposed in the application of the part to be regulated and the part to be inclosed may be modified by the provisional order.

The Commissioners shall not proceed to carry any application under this Act into effect until it is made to appear to them that the persons making the application represent at least one third in value of such interests in the common as are proposed to be affected by the provisional order.

"Regulation of common" includes adjustment of rights and improvement.

3. A provisional order for the regulation of a common may provide, generally or otherwise, for the adjustment of rights in respect of such common, and for the improvement of such common, or for either of such purposes, or for any of the things by this Act comprised under the expression "adjustment of rights" or "improvement of a common."

Explanation of adjustment of rights.

4. The adjustment of rights in respect of a common comprises for the purposes of this Act all or any of the following things:

(1.) As respects rights of common of pasture in a common, being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised;

(2.) As respects rights of common of turbary, or taking of estovers, or taking gravel, or otherwise interfering with the soil of the common, being waste land of a manor,—the determination of the persons by whom, and the mode in which, and the times at which such rights are to be exercised, also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may permanently injure the common;

(3.) As respects rights of common in land which is not waste land of a manor,—the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;

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(4.) As respects any common whether it is or is not waste land of a manor,—the determination of the rights and obligations of the lord of the manor, severalty owners, or other person or persons entitled to the soil of such common, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights, and in particular in the case of severalty owners of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land; and

(5.) Generally as respects any common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the common, which settlement may be conducive to the interests of all or any class of persons interested in the common.

Explanation of improvement.

5. The improvement of a common comprises for the purposes of this Act all or any of the following things; that is to say,

(1.) The draining, manuring, or levelling the common; and

(2.) The planting trees on parts of such common, or in any other way improving or adding to the beauty of the common; and

(3.) The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common; and

(4.) The general management of such common.

"Inclosure" means inclosure in manner provided by the Inclosure Acts.

6. A provisional order for the inclosure of a common means a provisional order for inclosing the common as provided by the Inclosure Acts, 1845 to 1868, as amended by this Act.

Provisions for the benefit of a neighbourhood applicable alike to orders for regulation and orders or inclosure.

7. In any provisional order in relation to a common, the Inclosure Commissioners shall, in considering the expediency of the application, take into consideration the question whether such application will be for the benefit of the neighbourhood, and may, with a view to such benefit, insert in any such order all or any of the following terms and conditions (in this Act referred

to as statutory provisions for the benefit of the neighbourhood); that is to say, A.D. 1876.

(1.) That free access is to be secured to any particular points of view; and

(2.) That particular trees or objects of historical interest are to be preserved; and

(3.) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the common; and

41 G. 3. c. 109. s. 8.

(4.) That carriage roads, bridle paths, and footpaths over such land are to be set out in such directions as may appear most commodious to the neighbourhood; and

(5.) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

Suburban Commons.

Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

8. Notice of any application under this Act in relation to a common which is situate within six miles of any town or towns (which common so situate is in this Act referred to as a suburban common,) shall be served as soon as may be on the urban sanitary authority or authorities having jurisdiction over such town or towns, and it shall be lawful for the urban sanitary authority of any such town to appear before the Assistant Commissioner on the occasion of his holding a local inquiry as in this Act mentioned, and also to appear before the Inclosure Commissioners, and to make to him or them, at any time during the proceedings in relation to obtaining a provisional order under this Act, such representations as they may think fit with respect to the expediency or inexpediency of such application, regard being had to the health, comfort, and convenience of the inhabitants of the town over which such authority has jurisdiction, and to propose to him or them such provisions as may appear to such urban sanitary authority to be proper, regard being had as aforesaid.

Any urban sanitary authority entitled to receive notice of an application in relation to a suburban common may, with the sanction

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of the Inclosure Commissioners, enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths or roads, or the doing any other matter or thing for the benefit of their town in relation to the common to which such application relates.

They may also, in relation to any such common, and with such sanction as aforesaid, enter into an undertaking to pay compensation in respect to the rights of commoners, for the purpose of securing greater privileges for the benefit of their town.

An urban sanitary authority may acquire by gift and hold without license in mortmain on trust for the benefit of their town any suburban common in respect of which they would be entitled to receive notice of any application made to the Inclosure Commissioners in pursuance of this Act, and any rights in such a common.

They may also in the case of any such suburban common purchase and hold as aforesaid, with a view to prevent the extinction of the rights of common, any saleable rights in common or any tenement of a commoner having annexed thereto rights of common.

They may also, with the consent of persons representing at least one third in value of such interests in a suburban common as aforesaid as are proposed to be affected by the provisional order, make an application to the Inclosure Commissioners for the regulation of such common with a view to the benefit of their town and the improvement of such common.

Where an urban sanitary authority makes an application under this Act with such consent as aforesaid in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or make any other payment out of its funds in respect of a common, such urban sanitary authority may, if the Inclosure Commissioners deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

The expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

A town for the purposes of this section means any municipal borough, or Improvement Act district, or Local Government district, having a population of not less than five thousand inhabitants.

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The population of any town for the purposes of this Act shall be reckoned according to the last published census for the time being, and distances shall be measured in a direct line from the outer boundary of the town to the nearest point of the suburban common.

Procedure.

Issue of forms by Commissioners.

9. The Inclosure Commissioners shall from time to time upon application made by the persons interested in any common issue in such form as they may deem expedient, information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act are to be made to the Commissioners, with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the Inclosure Commissioners.

Rules as to application to Commissioners.

10. The following rules shall be observed with respect to an application to the Inclosure Commissioners for a provisional order for the regulation or inclosure of a common; that is to say,

Publication of notices of application.

(1.) The applicants previously to making their application shall publish, in such manner as the Inclosure Commissioners may from time to time, by general or special order, direct, an advertisement giving notice of their intention to apply for such provisional order, and shall also serve a like notice on any urban sanitary authority entitled under this Act to receive such notice:

Manner of application.

(2.) The application shall be in writing, accompanied with a map of the common and, if for the regulation of a common, shall express whether the applicants propose that all or certain specified provisions only of this Act for the adjustment of rights or improvement of commons should be put in force in relation to such common, but, subject as aforesaid, an application for the regulation or inclosure of a common shall be in such form and be made in such manner as the Inclosure Commissioners may from time to time direct:

Evidence to be furnished in support of application.

(3.) On making their application in respect of any common, the applicants shall furnish the Inclosure Commissioners, in answer to questions previously submitted or otherwise in such manner as the said Commissioners may from time to time direct, with information bearing on the expediency of

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the application considered in relation to the benefit of the neighbourhood as well as to private interests:

Evidence in relation to benefit of neighbourhood.

(4.) The information to be furnished as bearing on the expediency of the application, considered in relation to the benefit of the neighbourhood, shall comprise statements as to the particulars following; that is to say, as to the number and occupation of the inhabitants of the parish or place in which the common is situate; as to the population of the neighbourhood, and the distance of the common from any neighbouring towns and villages; as to the intention of the applicants to propose the adoption of all or any of the statutory provisions as defined by this Act for the benefit of the neighbourhood; as to the circumstance of any ground other than the common to which the application relates being available for the recreation of the neighbourhood; and in the case of a common being waste land of a manor, as to the site, extent, and suitableness of the allotments, if any, proposed to be made for recreation grounds and field gardens, or for either of such purposes; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to the benefit of the neighbourhood, and if acceded to, as to what statutory provisions as defined by this Act ought to be inserted in the provisional order for the benefit of the neighbourhood:

The Inclosure Commissioners shall also require, in the case of an application for inclosure, special information as to the advantages the applicants anticipate to be derivable from the inclosure of a common as compared with the regulation of a common, also the reasons why an inclosure is expedient when viewed in relation to the benefit of the neighbourhood:

Evidence in relation to private interests.

(5.) The information to be furnished as bearing on the expediency of the application considered in relation to private interests shall comprise statements as to the several particulars following; that is to say, as to the extent and nature of the common to which the application relates; as to the mines, minerals, or valuable strata (if any) under the same; as to the questions of boundary (if any) concerning such common, or such mines, minerals, or strata; as to the parties interested in such common, and the numbers and proportion in value of interest who have consented to or dissented from the application; as

to the nature of the rights requiring the intervention of the Inclosure Commissioners or the interference of Parliament; as to the supposed advantages of the application being acceded to; as to (in cases where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the provisional order applied for) the allotment (if any) or compensation agreed on or proposed to be made to such lord of the manor in respect of his interest so affected; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to having regard to private interests, and if acceded to as to what provisions ought to be inserted in the provisional order for the protection of private interests:

Duty of Commissioners on application.

(6.) The Inclosure Commissioners shall take into consideration any application made to them as in this Act provided, and if satisfied by the information furnished to them as aforesaid, or by any further inquiries made by themselves or an Assistant Commissioner, that a primâ facie case has been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, they shall order a local inquiry to be held by an Assistant Commissioner.

Rules as to local inquiry.

11. The following rules shall be observed with respect to a local inquiry held by order of the Inclosure Commissioners.

Inspection and public meeting.

(1.) The Assistant Commissioner appointed to hold such inquiry shall inspect the common to which the application relates, and shall convene a public meeting at a suitable time and place for securing the attendance of the neighbouring inhabitants, and of all persons interested in the common.

Notice of meeting.

(2.) Previously to holding such meeting the Assistant Commissioner shall give not less than twenty-one days notice of his intention to hold the same.

Contents of notice.

(3.) The notice shall, in such form as the Inclosure Commissioners from time to time direct, state the nature of the application made, the objects of the meeting, that the meeting is a public one and held for the purpose of enabling the Assistant Commissioner to hear all persons desirous of being heard on the subject matter of the application, whether considered in relation to the benefit of the neighbourhood or to private interests, and the

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desirability of the attendance of all persons interested in the subject matter of the inquiry.

Publication of notice.

(4.) The notice shall be given—

(*a.*) By affixing a copy thereof on the principal door of the church of the parish in which the common to which the application relates, or the greater part thereof is situate; and

(*b.*) By posting copies of the same on or near the common to which it relates; and

(*c.*) By advertising in such manner as the Inclosure Commissioners may direct, or otherwise giving notice of the meeting in such manner as they think best calculated to ensure publicity in the locality.

Conduct of meeting.

(5.) The Assistant Commissioner shall preside and regulate the proceedings at such meeting, and shall hear all persons desirous of being heard in relation to the subject matter of the inquiry. He may adjourn any such meeting from time to time, or from place to place, on giving such notice of adjournment as he thinks best calculated to ensure publicity.

Personal inquiries by Assistant Commissioner.

(6.) The Assistant Commissioner shall also make any inquiries and do any other acts which he may be instructed by the Inclosure Commissioners or may think it advisable to do, for the purpose of enabling the Commissioners to judge as to the expediency of making the provisional order applied for, also as to the nature of the provisions to be inserted in any such provisional order if made.

Report of Assistant Commissioner to Inclosure Commissioners.

(7.) The Assistant Commissioner shall report in writing to the Inclosure Commissioners the result of the local inquiry, and of the public meeting or meetings held by him, (in such form and with such details as the Inclosure Commissioners may from time to time direct), and specially shall report to the Inclosure Commissioners the information obtained by him as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Inclosure Commissioners.

He shall also report the number of persons who attended the meetings held by him, the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted in the provisional order for the benefit of the neighbourhood or for the protection of private interests, and any other circum-

stances which he may think expedient, with a view to enable the Inclosure Commissioners to judge of the expediency of making the provisional order, having regard as aforesaid, and also, if the order be made, of the provisions to be inserted therein.

Map to accompany report.

(8.) The report shall be accompanied by an outline or other map on such scale and of such a description as may be directed by the Inclosure Commissioners, with a sketch in the case of an inclosure of a common being waste of land, of a manor, of the allotments (if any) proposed to be made for recreation grounds and field gardens, or for either of such purposes.

Rules as to provisional orders.

12. The following rules shall be observed with respect to provisional orders to be made by the Inclosure Commissioners; that is to say,

Draft provisional order to be framed.

(1.) The Inclosure Commissioners, if satisfied by the report of the Assistant Commissioner or by further inquiries to be made by themselves or an Assistant Commissioner, that having regard to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, shall frame, in such form and with such provisions as they, having regard as aforesaid, may think expedient, and as are consistent with law and the description of provisional order applied for, a draft provisional order for the consideration of the persons interested in the common, specifying, if such application is for the regulation of a common, whether all or any one or more of the provisions of this Act for the adjustment of rights and the improvement of a common are to be put in force:

Provisions for benefit of neighbourhood.

(2.) With respect to provisions for the benefit of the neighbourhood, there shall be inserted in such draft provisional order all or any of the statutory provisions as defined by this Act for the benefit of the neighbourhood as the Inclosure Commissioners may think expedient; also, if the order is an inclosure order in the case of a common being waste land of a manor, the quantity and situation of the allotments (if any) to be made for recreation grounds and field gardens:

Provisions for protection of private interests.

(3.) With respect to private interests, there shall be inserted in such draft provisional order, (1) where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the order, a statement

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of the allotment (if any) or other compensation to be allotted or made to the lord of such manor in respect of his interest so affected; and (2) where there is any mineral property or other rights in relation thereto belonging to persons other than the lord of the manor which may be affected by the order, such provisions and reservations as are required to be inserted by the Inclosure Acts, 1845 to 1868, or as may appear to the Inclosure Commissioners proper to be inserted; also, if there are any other rights which appear to the Commissioners proper to be specially provided for or to be excepted from the operation of the order, there shall be specified the provisions or exceptions to be made in that behalf:

Deposit of draft order for consideration of parties interested.

(4.) As soon as may be after making their draft provisional order, the Inclosure Commissioners shall cause a copy thereof to be deposited in the parish in which the common or the greater part thereof is situate to which such order relates, in order that the same may be considered by the parties interested therein, and they shall give notice, in such manner as they think best calculated to secure publicity, of such deposit having been made, and of their intention to certify the expediency of such order if the necessary consents are obtained thereto:

Consents before provisional order certified to be expedient. 8 & 9 Vict. c. 118. ss. 27, 29.

(5.) The Inclosure Commissioners shall not certify the expediency of a draft provisional order unless they are satisfied that persons representing at least two thirds in value of such interests in the common as are affected by the order consent thereto; and when the common to which the order relates is the waste land of any manor, or land within any manor to the soil of which the lord of such manor is entitled in right of his manor, then, unless there is more than one person interested in such manor according to the definition of the Inclosure Act, 1845, the Commissioners shall not certify the expediency of the same, unless the person interested in the common in right of such manor, or his substitute under the said Inclosure Act, 1845, consent to such order; and where there is more than one person interested in such manor the Commissioners shall not certify the expediency of the order, in case such persons or the majority of such persons in respect of interest signify

their dissent within a time to be limited by the Commissioners:

8 & 9 Vict. c. 118. s. 27.

Reservation in favour of freemen interested in common.

(6.) Where the freemen, burgesses, or inhabitant householders of any city, borough, or town are entitled to rights of common or other interest in the common to which the draft provisional order relates, the Inclosure Commissioners shall not certify the expediency of such order unless it appears to the Commissioners that two thirds in number of such of the freemen and burgesses so entitled as may be resident in such city, borough, or town, or within seven miles thereof, or of such inhabitant householders, as the case may be, have consented to the order; and in case two thirds in number of such resident freemen and burgesses, or of such inhabitant householders, have so consented, such consent shall be deemed the consent of the class of freemen, burgesses, or inhabitant householders, as the case may be, so entitled:

Means of obtaining consents.

(7.) The Inclosure Commissioners may cause a meeting or meetings to be held by an Assistant Commissioner for the purpose of obtaining the necessary consents, or of ascertaining the interests of consenting or dissenting parties, or they may cause such consents or dissents to be ascertained in such other manner as they may think fit:

Power to modify provisional order before expediency certified.

(8.) The Inclosure Commissioners may, at any time before certifying the expediency of a draft provisional order, modify the same of their own mere motion, or on the suggestion of any parties interested, but such modifications shall not be of any validity unless they are consented to in the same manner as if they formed part of the draft provisional order originally deposited by the Commissioners:

Certificate of expediency of provisional order.

(9.) When the necessary consents have been obtained to any draft provisional order as originally deposited, or as modified in pursuance of this Act, such order shall be deemed to be final; and the Inclosure Commissioners shall in a report or reports to be made from time to time, as respects each provisional order which has become final as aforesaid, certify that it is expedient that such provisional order should be confirmed by Parliament, together with their reasons for certifying such expediency, and specially, as respects each provisional order, they shall, in such manner as they think best adapted

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to enable Parliament to judge of the expediency of such order, state the information furnished to them as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Commissioners; also the result of the local inquiry, and of the number and description of the persons who attended the meetings held during such inquiry, and the nature of the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted for the benefit of the neighbourhood or for the protection of private interests by the persons so attending, and any other circumstances which the Commissioners may think it expedient to state for such purposes as aforesaid:

Confirmation of provisional order. 8 & 9 Vict. c. 118. s. 32.

(10.) Every report made by the Inclosure Commissioners certifying the expediency of any provisional order under this Act shall be presented to Parliament, and if at any time thereafter it is enacted by Act of Parliament that any order for the regulation or inclosure of a common, the expediency of which has been so certified by the Commissioners, shall be confirmed, the regulation or inclosure of any common to which any such order relates shall be proceeded with and completed according to the terms of the provisional order relating to such common, and to the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, and any Act of Parliament containing such enactments as aforesaid shall be deemed to be a public general Act, but a provisional order, until such Act of Parliament as aforesaid has been passed in relation thereto, shall not be of any validity whatever.

Partial Application of procedure under Inclosure Acts.

13. The Inclosure Commissioners may insert in any provisional order for the regulation of a common any provisions they may deem necessary for the purpose of carrying such order into effect; but, subject as aforesaid, when an Act of Parliament has been passed as aforesaid, enacting that the regulation of a common shall be proceeded with, the subsequent proceedings for carrying into effect the regulation of such common shall be the same, so far as is practicable, as they would be in case such common were to be inclosed instead of being regulated, and the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, shall apply accordingly.

Supplemental Provisions.

14. Any byelaw made in pursuance of this Act, and any alteration made therein, and any revocation of a byelaw, shall not be of any validity until it has been confirmed by one of Her Majesty's Principal Secretaries of State. Provision as to byelaws.

Pecuniary penalties (to be recovered summarily before any two justices) may be imposed by any such byelaws on persons breaking the same, provided that no penalty exceeds for any one offence the sum of *forty shillings*.

15. Subject to the terms of the provisional order the amount of any compensation to be paid for any restriction, modification, or abolition of rights in pursuance of an order for the regulation of a common shall be deemed to be expenses of and incidental to the regulation of the common, and may be defrayed accordingly. Provision as to certain expenses under order for regulation of a common.

Part II.

Amendment of the Inclosure Acts.

Field Gardens and Recreation Grounds.

16. Whereas it is expedient that the expenses of clearing any allotments made for field gardens may be included in the expenses of an inclosure: Be it enacted, that the valuer shall, unless the Inclosure Commissioners otherwise direct, cause every allotment made for a field garden to be cleared, drained, fenced, levelled, and otherwise made fit for immediate use and occupation; and the expenses incurred by the valuer under this section shall be paid as part of the general expenses of the inclosure. Expenses of clearing, draining, and fencing field gardens.

17. The provisions of the Inclosure Acts, 1845 to 1868, which authorise the Inclosure Commissioners to allow an equal quantity of the land proposed to be inclosed to be allotted for the purpose of a recreation ground or field garden, or for any other public purpose, in lieu of that directed to be allotted by any provisional order, shall extend to authorise them to allow the allotment of land of equal value although it may not be of equal quantity. Substituted allotments for recreation grounds and field gardens. 9 & 10 Vict. c. 70. s. 4. Com. 1869, rec. 12.

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Situation of allotments for recreation grounds and field gardens. 8 & 9 Vict. c. 118. s. 74.

18. Every allotment made for the purpose of a recreation ground or field garden shall be in such part of the land proposed to be inclosed as appears to the Inclosure Commissioners to be best suited for the purpose for which it is appropriated, and where any land proposed to be inclosed consists partly of common being waste land of a manor (in this section referred to as the first-mentioned land), and partly of common not being waste land of a manor (in this section referred to as the second-mentioned land), and the Commissioners are satisfied that it would be advantageous that the allotment for a recreation ground or a field garden, or any part thereof, should be made out of the second-mentioned land instead of out of the first-mentioned land, the Commissioners may, in the provisional order relating to such land, specify as one of the terms and conditions of the inclosure thereof that the said allotments or the said part thereof shall be made accordingly out of the second-mentioned land, and shall out of the first-mentioned land allot land of equal value by way of exchange to the persons interested in the second-mentioned land.

Amendment of law as to letting field gardens.

8 & 9 Vict. c. 118. s. 109.

19. Whereas by the Inclosure Act, 1845, allotment wardens are required to let the allotments under their management to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, and are further required to demand in respect of such letting, a rent not below the full yearly value of the land to be ascertained in manner in the said Act mentioned; and whereas it is expedient to amend the said provisions: Be it enacted that allotment wardens, if they are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, may let the same, or any unlet portion thereof, in gardens not exceeding half an acre each to such inhabitants as aforesaid: Further, it shall be the duty of allotment wardens to offer the gardens under their management to the poor inhabitants of the parish at a fair agricultural rent instead of at such rent as is required by the said Act. Moreover, if in any parish the allotment wardens are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in such quantities and at such rents as aforesaid, they may let the same, or such portion as may be unlet to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the allotment wardens to resume possession thereof within a period not exceeding twelve months, if it should at any time be required for such poor inhabitants as aforesaid.

This section shall apply to any allotment under the management of allotment wardens, in pursuance of the Inclosure Acts, whether made before or after the passing of this Act.

Application of surplus rents of recreation grounds and field gardens. 8 & 9 Vict. c. 118. ss. 73, 112.

20. Whereas by section seventy-three of the Inclosure Act, 1845, the surplus rents arising from recreation grounds are applicable in aid of the rates for the repair of the public highways in the parish or respective parishes in which the said grounds are situate, and by section one hundred and twelve of the same Act the surplus rents arising from field gardens are payable to the overseers of the poor in aid of the poor rates of the parish: And whereas it is expedient to amend the said provisions: Be it enacted, that the surplus rents arising from recreation grounds shall from and after the passing of this Act cease to be applied in manner provided by the said seventy-third section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the recreation grounds or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood; and the surplus rents arising from field gardens shall, from and after the passing of this Act, cease to be applied in manner provided by the said one hundred and twelfth section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the field gardens or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for field gardens in the same parish or neighbourhood.

Reports to be made by managers of recreation grounds and field gardens.

21. The trustees of recreation grounds, where such trustees are the overseers or churchwardens of a parish, and the allotment wardens of field gardens shall, from time to time, and at such intervals of not less than three years nor more than five years, as the Inclosure Commissioners direct, make such reports to the said Commissioners in respect of the recreation grounds and field gardens under their management, with such particulars of the rents received by them, as the Commissioners may require.

Amendment of law as to town and village greens. 20 & 21 Vict. c. 31. s. 12.

22. Whereas by the Inclosure Act, 1857, provision is made for the protection of town and village greens, and recreation grounds, and it is expedient to amend such provision: Be it enacted as follows, that is to say, an encroachment on or inclosure of a town or village green, also any erection thereon or disturbance of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall

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be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section twelve of the said Inclosure Act, 1857, he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground is situate, as well as upon the information of such persons as in the said section mentioned.

This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.

General Amendments.

Substitution of Summary Jurisdiction Act, 11 & 12 Vict. c. 43. for repealed Act 7 & 8 Geo. 4. c. 30. in certain sections of the Inclosure Acts.

11 & 12 Vict. c. 99. s. 10. 12 & 13 Vict. c. 83. s. 10. 15 & 16 Vict. c. 79. s. 33.

23. There shall be repealed so much of section ten of the Inclosure Act, 1848, and of section ten of the Inclosure Act, 1849, and of section thirty-three of the Inclosure Act, 1852, as incorporates or refers to any provisions of the Act of the seventh and eighth years of the reign of King George the Fourth, chapter thirty, intituled "An Act for consolidating and amending the laws in England relative to malicious injuries to property," and which last-mentioned provisions have since been repealed, and in place thereof be it enacted, that—

Any offence under section ten of the Inclosure Act, 1848, and under section ten of the Inclosure Act, 1849, and under section thirty-three of the Inclosure Act, 1852, shall be deemed to be an offence punishable on summary conviction under "The Act of the "session of the eleventh and twelfth years of the reign of Her "present Majesty, chapter forty-three, intituled, 'An Act to "'facilitate the performance of the duties of justices of the peace "'out of sessions within England and Wales with respect to "'summary convictions and orders,'" and the Acts amending the same: Provided that any penalty or forfeiture incurred shall be applied in manner provided by the said Inclosure Acts, and that any information in relation to any such offence as is mentioned in this section shall be heard, tried, determined, and adjudged before two justices.

Extension of Sec. 105. of the Inclosure Act, 1845, as to exchanges and partitions.

24. The provisions of section one hundred and five of the Inclosure Act, 1845, relating to the validity after confirmation of an award of inclosure of the exchanges, and partitions set forth in such award, shall apply to orders of exchange, partition, and division of intermixed lands carried into effect in pursuance of the Inclosure Acts, 1845 to 1868, by separate orders, and not included in an award of inclosure.

Part III.

Miscellaneous.

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Repeal of certain parts of the Inclosure Act, 1845, and amendment of law as to reports.

25. There shall be repealed so much of section thirty of the Inclosure Act, 1845, as prescribes a limit to the quantity of land to be allotted to recreation grounds; also the twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh sections of the Inclosure Act, 1845, without prejudice to any proceedings already instituted thereunder, and the Inclosure Commissioners shall not be required to repeat, in their general annual report, any of the particulars in relation to the regulation or inclosure of commons which they may have stated in any other reports made by them in pursuance of this Act in relation to such commons, but they may refer to such other reports, or give a summary thereof, or otherwise deal with the same as may be thought expedient.

Act not to apply to metropolitan commons.

26. This Act shall not apply to any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 and 1869.

A common regulated under Act not to be inclosed without sanction of Parliament.

27. Where an Act of Parliament has been passed confirming a provisional order under this Act for the regulation of a common, then, subject to and without prejudice to the provisions of that order, such common shall not, nor shall any part thereof, be inclosed without the sanction of Parliament subsequently obtained.

Definitions.

Definitions.

28. In this Act, unless the context otherwise requires,—

"A common" means any land subject to be inclosed under the Inclosure Acts, 1845 to 1868:

"Waste land of a manor" means and includes any land consisting of waste land of any manor on which the tenants of such manor have rights of common, or of any land subject to any rights of common which may be exercised at all times of the year for cattle levant and couchant, or to any rights of common which may be exercised at all times of the year, and are not limited by number or stints: 8 & 9 Vict. c. 118. s. 30.

"Person" includes a body corporate:

"Inclosure Acts, 1845 to 1868," means the Acts mentioned in the schedule hereto, and each of the Acts mentioned in the said schedule may be cited by the short title in such schedule in that behalf mentioned; and the above mentioned Acts together with this Act may be cited as "The Inclosure Acts, 1845 to 1876:"

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"Municipal borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of "municipal corporations in England and Wales," and the Acts amending the same:

"Improvement Act district" means any area subject to the jurisdiction of any commissioners, trustees, or other persons invested by any local Act of Parliament with powers of improving, cleansing, lighting, or paving any town:

"Local government district" has the same meaning as it has in the Public Health Act, 1875.

SCHEDULE.

Year and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 118.	An Act to facilitate the inclosure and improvement of commons and lands held in common, the exchange of lands, and the division of intermixed lands; to provide remedies for defective or incomplete executions, and for the non-execution of the powers of general and local Inclosure Acts, and to provide for the revival of such powers in certain cases.	The Inclosure Act, 1845.
9 & 10 Vict. c. 70.	An Act to amend the Act to facilitate the inclosure and improvement of commons.	The Inclosure Act, 1846.
10 & 11 Vict. c. 111.	An Act to extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act, 1847.
11 & 12 Vict. c. 99.	An Act to further extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act, 1848.
12 & 13 Vict. c. 83.	An Act further to facilitate the inclosure of commons and the improvement of commons and other lands.	The Inclosure Act, 1849.
14 & 15 Vict. c. 53.	An Act to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the completion of proceedings under the Tithe Commutation Acts.	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79.	An Act to amend and further extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1852.
17 & 18 Vict. c. 97.	An Act to amend and extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1854.
20 & 21 Vict. c. 31.	An Act to explain and amend the Inclosure Acts.	The Inclosure Act, 1857.
22 & 23 Vict. c. 43.	An Act to amend and extend the provisions of the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1859.
31 & 32 Vict. c. 89.	An Act to alter certain provisions in the Acts for the commutation of tithes, the Copyhold Acts, and the Acts for the inclosure, exchange, and improvement of land, and to make provision towards the expense of the Copyhold, Inclosure and Tithe Office.	The Inclosure, &c. Expenses Act, 1868.

A

BILL

For facilitating the regulation and improvement of Commons, and for amending the Acts relating to the Inclosure of Commons.

(*Prepared and brought in by Mr. Secretary Cross and Sir Henry Selwin-Ibbetson.*)

Ordered, by The House of Commons, *to be Printed,* 10 *February* 1876.

[Bill 51.]

Under 4 *oz.*

Commons Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.

PART I.

LAW AS TO THE REGULATION AND INCLOSURE OF COMMONS.

Applications in relation to Commons.

2. Alternative provisional order for regulation or inclosure of commons.
3. "Regulation of common" includes adjustment of rights and improvement.
4. Explanation of adjustment of rights.
5. Explanation of improvement.
6. "Inclosure" means inclosure in manner provided by the Inclosure Acts.
7. Provisions for the benefit of a neighbourhood applicable alike to orders for regulation and orders for inclosure.

Suburban Commons.

8. Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

Procedure.

9. Issue of forms by Commissioners.
10. Rules as to application to Commissioners.
    - (1.) Publication of notices of application.
    - (2.) Manner of application.
    - (3.) Evidence to be furnished in support of application.
    - (4.) Evidence in relation to benefit of neighbourhood.
    - (5.) Evidence in relation to private interests.
    - (6.) Duty of Commissioners on application.

Clause.

11. Rules as to local inquiry.
(1.) Inspection and public meeting.
(2.) Notice of meeting.
(3.) Contents of notice.
(4.) Publication of notice.
(5.) Conduct of meeting.
(6.) Personal inquiries by Assistant Commissioner.
(7.) Report of Assistant Commissioner to Inclosure Commissioners.
(8.) Map to accompany report.
12. Rules as to provisional orders.
(1.) Draft provisional order to be framed.
(2.) Provisions for benefit of neighbourhood.
(3.) Provisions for protection of private interests.
(4.) Deposit of draft order for consideration of parties interested.
(5.) Consents before provisional order certified to be expedient.
(6.) Reservation in favour of freemen interested in common.
(7.) Means of obtaining consents.
(8.) Power to modify provisional order before expediency certified.
(9.) Certificate of expediency of provisional order.
(10.) Confirmation of provisional order.
13. Partial application of procedure under Inclosure Acts.
14. Power to raise money for improvement of commons.

Supplemental Provisions.

15. Provision as to byelaws.
16. Notice of application for confirmation of byelaws.
17. Provision as to certain expenses under order for regulation of a common.
18. Definition of power of Charity Commissioners in certain cases.

Part II.

Amendment of the Inclosure Acts.

Field Gardens and Recreation Grounds.

19. Expenses of clearing, draining, and fencing field gardens.
20. Substituted allotments for recreation grounds and field gardens.

Clause.
21. Situation of allotments for recreation grounds and field gardens.
22. Amendment of law as to letting field gardens.
23. Application of surplus rents of recreation grounds and field gardens.
24. Reports to be made by managers of recreation grounds and field gardens.
25. Amendment of law as to town and village greens.
26. Jurisdiction of county court in respect of illegal inclosures.
27. Appointment of valuer to be confirmed by Commissioners.

General Amendments.

28. Substitution of Summary Jurisdiction Act, 11 & 12 Vict. c. 43. for repealed Act, 7 & 8 Geo. 4. c. 30. in certain sections of the Inclosure Acts.
29. Extension of Sec. 105. of the Inclosure Act, 1845, as to exchanges and partitions.

Part III.

Miscellaneous.

30. Repeal of certain parts of the Inclosure Act, 1845, and amendment of law as to reports.
31. Act not to apply to metropolitan commons.
32. A common regulated under Act not to be inclosed without sanction of Parliament.

Definitions.

33. Definitions.

Schedule.

A

B I L L

[AS AMENDED IN COMMITTEE]

FOR

Facilitating the regulation and improvement of Commons, and for amending the Acts relating to the Inclosure of Commons. A.D. 1876.

WHEREAS by the Inclosure Acts, 1845 to 1868, upon the application and with the consent of such of the persons interested in any common as in the said Acts in that behalf specified, the Inclosure Commissioners are empowered by provisional order under their seal to authorise the inclosure of such common, provided such inclosure is made on such terms and conditions as may appear to the Commissioners to be proper for the protection of any public interests, and provided also that the Commissioners are of opinion that such inclosure would be expedient, having regard as well to the health, comfort, and convenience of the inhabitants of any cities, towns, villages, or populous places in or near any parish in which the land proposed to be inclosed, or any part thereof, may be situate (herein-after included under the expression the benefit of the neighbourhood), as to the advantage of the persons interested in the common to which such application relates (herein-after included under the expression private interests); but such provisional order is of no validity until and unless the Commissioners have in a report to be laid before Parliament certified that in their opinion the inclosure of such common, if made on the terms and conditions in their provisional order expressed, would be expedient, having regard to the benefit of the neighbourhood as well as to such private interests as aforesaid, nor until and unless an Act of Parliament has been passed confirming such order and affirming such certificate as aforesaid, and directing that the proposed inclosure of the common should be proceeded with accordingly:

Preamble. 8 & 9 Vict. c. 118.

ss. 26, 27.

And whereas by the said Inclosure Acts, information is required to be supplied and inquiries to be made for the purpose of enabling the Inclosure Commissioners to judge of such expe-

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diency as aforesaid, but it is desirable to make further provisions for bringing under the notice of the said Commissioners, and of Parliament, any circumstances bearing on the expediency of allowing the inclosure of a common, and that inclosure in severalty as opposed to regulation of commons should not be herein-after made unless it can be proved to the satisfaction of the said Commissioners and of Parliament that such inclosure will be of benefit to the neighbourhood as well as to private interests, and to those who are legally interested in any such commons.

8 & 9 Vict. c. 118. s. 30.

And whereas by the said Inclosure Acts the Commissioners are empowered in the case of a common being waste land of a manor to require, and in their provisional order to specify as one of the conditions of inclosure, the appropriation of an allotment for the purposes of exercise and recreation by the inhabitants of the neighbourhood, and also of an allotment for the labouring poor, and it is expedient to give further effect to the provisions relating to the said allotments (in this Act referred to as allotments for recreation grounds and field gardens) :

And whereas it is expedient to give further facilities for enabling the Inclosure Commissioners to regulate, improve, stint, and otherwise deal with commons without wholly inclosing and allotting the same in severalty :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited for all purposes as the Commons Act, 1876.

Part I.

Law as to the Regulation and Inclosure of Commons.

Applications in relation to Commons.

Alternative provisional order for regulation or inclosure of commons.

2. The Inclosure Commissioners may entertain an application made in manner in this Act mentioned for a provisional order—

(1.) For the regulation of a common ; or

(2.) For the inclosure of a common or parts of a common ;

Further, an application may be made as respects the same common for the regulation of part of such common, specifying the part to be regulated, and for the inclosure of the residue, and in such case the application shall be dealt with as respects such parts as

if they were separate commons, with this exception, that the boundaries as proposed in the application of the part to be regulated and the part to be inclosed may be modified by the provisional order.

The Commissioners shall not proceed to carry any application under this Act into effect until it is made to appear to them that the persons making the application represent at least one third in value of such interests in the common as are proposed to be affected by the provisional order.

"Regulation of common" includes adjustment of rights and improvement.

3. A provisional order for the regulation of a common may provide, generally or otherwise, for the adjustment of rights in respect of such common, and for the improvement of such common, or for either of such purposes, or for any of the things by this Act comprised under the expression "adjustment of rights" or "improvement of a common."

Explanation of adjustment of rights.

4. The adjustment of rights in respect of a common comprises for the purposes of this Act all or any of the following things:

(1.) As respects rights of common of pasture in a common, being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised;

(2.) As respects rights of common of turbary, or taking of estovers, or taking gravel, or otherwise interfering with the soil of the common, being waste land of a manor,—the determination of the persons by whom, and the mode and place or places in which, and the times at which such rights are to be exercised, also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may permanently injure the common;

(3.) As respects rights of common in land which is not waste land of a manor,—the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;

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(4.) As respects any common whether it is or is not waste land of a manor,—the determination of the rights and obligations of the lord of the manor, severalty owners, or other person or persons entitled to the soil of such common, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights, and in particular in the case of severalty owners of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land; and

(5.) Generally as respects any common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the common, which settlement may be conducive to the interests of all or any class of persons interested in the common.

Explanation of improvement.

5. The improvement of a common comprises for the purposes of this Act all or any of the following things; that is to say,

(1.) The draining, manuring, or levelling the common; and

(2.) The planting trees on parts of such common, or in any other way improving or adding to the beauty of the common; and

(3.) The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common; and

(4.) The general management of such common.

(5.) The appointment from time to time of conservators of the common for the purposes aforesaid.

"Inclosure" means inclosure in manner provided by the Inclosure Acts.

6. A provisional order for the inclosure of a common means a provisional order for inclosing the common as provided by the Inclosure Acts, 1845 to 1868, as amended by this Act.

Provisions for the benefit of a neighbourhood applicable

7. In any provisional order in relation to a common, the Inclosure Commissioners shall, in considering the expediency of the application, take into consideration the question whether such application will be for the benefit of the neighbourhood, and shall, with a view to such benefit, insert in any such order

such of the following terms and conditions (in this Act referred to as statutory provisions for the benefit of the neighbourhood) as are applicable to the case; that is to say,

alike to orders for regulation and orders or inclosure.

(1.) That free access is to be secured to any particular points of view; and

(2.) That particular trees or objects of historical interest are to be preserved; and

(3.) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the common; and

41 G. 3. c. 109. s. 8.

(4.) That carriage roads, bridle paths, and footpaths over such common are to be set out in such directions as may appear most commodious; and

(5.) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

Suburban Commons.

Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

8. Notice of any application under this Act in relation to a common, or any part of a common, which is situate either wholly or partly in any town or towns, or within six miles of any town or towns (which common, or part of a common, so situate is in this Act referred to as a suburban common,) shall be served as soon as may be on the urban sanitary authority or authorities having jurisdiction over such town or towns, and it shall be lawful for the urban sanitary authority of any such town to appear before the Assistant Commissioner on the occasion of his holding a local inquiry as in this Act mentioned, and also to appear before the Inclosure Commissioners, and to make to him or them, at any time during the proceedings in relation to obtaining a provisional order under this Act, such representations as they may think fit with respect to the expediency or inexpediency of such application, regard being had to the health, comfort, and convenience of the inhabitants of the town over which such authority has jurisdiction, and to propose to him or them such provisions as may appear to such urban sanitary authority to be proper, regard being had as aforesaid.

Any urban sanitary authority entitled to receive notice of an

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application in relation to a suburban common may, with the sanction of the Inclosure Commissioners, enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths or roads, or the doing any other matter or thing for the benefit of their town in relation to the common to which such application relates.

They may also, in relation to any such common, and with such sanction as aforesaid, enter into an undertaking to pay compensation in respect to the rights of commoners, for the purpose of securing greater privileges for the benefit of their town.

An urban sanitary authority may acquire by gift and hold without license in mortmain on trust for the benefit of their town any suburban common in respect of which they would be entitled to receive notice of any application made to the Inclosure Commissioners in pursuance of this Act, and any rights in such a common.

They may also in the case of any such suburban common purchase and hold as aforesaid, with a view to prevent the extinction of the rights of common, any saleable rights in common or any tenement of a commoner having annexed thereto rights of common.

They may also, with the consent of persons representing at least one third in value of such interests in a suburban common as aforesaid as are proposed to be affected by the provisional order, make an application to the Inclosure Commissioners for the regulation of such common with a view to the benefit of their town and the improvement of such common.

Where an urban sanitary authority makes an application under this Act with such consent as aforesaid in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or make any other payment out of its funds in respect of a common, such urban sanitary authority may, if the Inclosure Commissioners deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

The expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

A town for the purposes of this section means any municipal borough, or Improvement Act district, or Local Government district, having a population of not less than five thousand inhabitants.

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The population of any town for the purposes of this Act shall be reckoned according to the last published census for the time being, and distances shall be measured in a direct line from the outer boundary of the town to the nearest point of the suburban common.

Procedure.

Issue of forms by Commissioners.

9. The Inclosure Commissioners shall from time to time upon application made by the persons interested in any common issue in such form as they may deem expedient, information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act are to be made to the Commissioners, with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the Inclosure Commissioners.

Rules as to application to Commissioners.

10. The following rules shall be observed with respect to an application to the Inclosure Commissioners for a provisional order for the regulation or inclosure of a common; that is to say,

Publication of notices of application.

(1.) The applicants previously to making their application shall publish, in such manner as the Inclosure Commissioners may from time to time, by general or special order, direct, an advertisement giving notice of their intention to apply for such provisional order, and shall also serve a like notice on any urban sanitary authority entitled under this Act to receive such notice:

Manner of application.

(2.) The application shall be in writing, accompanied with a map of the common, or part thereof, and, if for the regulation of a common, shall express whether the applicants propose that all or certain specified provisions only of this Act for the adjustment of rights or improvement of commons should be put in force in relation to such common, and whether to apply to the whole or part of such common, but, subject as aforesaid, an application for the regulation or inclosure of a common shall be in such form and be made in such manner as the Inclosure Commissioners may from time to time direct:

Evidence to be furnished in support of application.

(3.) On making their application in respect of any common, the applicants shall furnish the Inclosure Commissioners, in answer to questions previously submitted or otherwise in such manner as the said Commissioners may from time to time direct, with information bearing on the expediency of

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the application considered in relation to the benefit of the neighbourhood as well as to private interests:

Evidence in relation to benefit of neighbourhood.

(4.) The information to be furnished as bearing on the expediency of the application, considered in relation to the benefit of the neighbourhood, shall comprise statements as to the particulars following; that is to say, as to the number and occupation of the inhabitants of the parish or place in which the common is situate; as to the population of the neighbourhood, and the distance of the common from any neighbouring towns and villages; as to the intention of the applicants to propose the adoption of all or any of the statutory provisions as defined by this Act for the benefit of the neighbourhood; as to the circumstance of any ground other than the common to which the application relates being available for the recreation of the neighbourhood; and in the case of a common being waste land of a manor, as to the site, extent, and suitableness of the allotments, if any, proposed to be made for recreation grounds and field gardens, or for either of such purposes; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to the benefit of the neighbourhood, and if acceded to, as to what statutory provisions as defined by this Act ought to be inserted in the provisional order for the benefit of the neighbourhood:

The Inclosure Commissioners shall also require, in the case of an application for inclosure, special information as to the advantages the applicants anticipate to be derivable from the inclosure of a common as compared with the regulation of a common, also the reasons why an inclosure is expedient when viewed in relation to the benefit of the neighbourhood:

Evidence in relation to private interests.

(5.) The information to be furnished as bearing on the expediency of the application considered in relation to private interests shall comprise statements as to the several particulars following; that is to say, as to the extent and nature of the common to which the application relates; as to the mines, minerals, or valuable strata (if any) under the same; as to the questions of boundary (if any) concerning such common, or such mines, minerals, or strata; as to the parties interested in such common, and the numbers and proportion in value of interest who have consented to or dissented from the application; as

to the nature of the rights requiring the intervention of the Inclosure Commissioners or the interference of Parliament; as to the supposed advantages of the application being acceded to; as to (in cases where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the provisional order applied for) the allotment (if any) or compensation agreed on or proposed to be made to such lord of the manor in respect of his interest so affected; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to having regard to private interests, and if acceded to as to what provisions ought to be inserted in the provisional order for the protection of private interests:

Duty of Commissioners on application.

(6.) The Inclosure Commissioners shall take into consideration any application made to them as in this Act provided, and if satisfied by the information furnished to them as aforesaid, or by any further inquiries made by themselves or an Assistant Commissioner, that a primâ facie case has been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, they shall order a local inquiry to be held by an Assistant Commissioner.

Rules as to local inquiry.

11. The following rules shall be observed with respect to a local inquiry held by order of the Inclosure Commissioners.

Inspection and public meeting.

(1.) The Assistant Commissioner appointed to hold such inquiry shall inspect the common to which the application relates, and shall convene one or more public meetings at a suitable time and place for securing the attendance of the neighbouring inhabitants, and of all persons claiming interest in the common: Provided always, that one at least of such public meetings shall be held in the evening between the hours of seven and ten of the clock.

Notice of meeting.

(2.) Previously to holding such meeting the Assistant Commissioner shall give not less than twenty-one days notice of his intention to hold the first of such meetings.

Contents of notice.

(3.) The notice shall, in such form as the Inclosure Commissioners from time to time direct, state the nature of the application made, the objects of the meeting, that the meeting is a public one and held for the purpose of enabling the Assistant Commissioner to hear all persons

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desirous of being heard on the subject matter of the application, whether considered in relation to the benefit of the neighbourhood or to private interests, and the desirability of the attendance of all persons interested in the subject matter of the inquiry.

Publication of notice.

(4.) The notice shall be given—

(*a.*) By affixing a copy thereof on the principal door of the church of the parish in which the common to which the application relates, or the greater part thereof is situate; and

(*b.*) By posting copies of the same on or near the common to which it relates at the post office or post offices of the parish or district in which the common to which the application relates is situate, at any town hall, or vestry hall, or other building or room the expense of maintaining which is payable out of any local rate, situate in the parish or district, and at all places therein where notices are usually posted; and

(*c.*) By advertising in such manner as the Inclosure Commissioners may direct, or otherwise giving notice of the meetings in such manner as they think best calculated to ensure publicity in the locality.

Conduct of meeting.

(5.) The Assistant Commissioner shall preside and regulate the proceedings at such meetings, and shall hear all persons desirous of being heard in relation to the subject matter of the inquiry. He may adjourn any such meeting from time to time, or from place to place, on giving such notice of adjournment as he thinks best calculated to ensure publicity.

Personal inquiries by Assistant Commissioner.

(6.) The Assistant Commissioner shall also make any inquiries and do any other acts which he may be instructed by the Inclosure Commissioners or may think it advisable to do, for the purpose of enabling the Commissioners to judge as to the expediency of making the provisional order applied for, also as to the nature of the provisions to be inserted in any such provisional order if made.

Report of Assistant Commissioner to Inclosure Commissioners.

(7.) The Assistant Commissioner shall report in writing to the Inclosure Commissioners the result of the local inquiry, and of the public meeting or meetings held by him, (in such form and with such details as the Inclosure Commissioners may from time to time direct), and specially shall report to

the Inclosure Commissioners the information obtained by him as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Inclosure Commissioners.

He shall also report the number of persons who attended the meetings held by him, the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted in the provisional order for the benefit of the neighbourhood or for the protection of private interests, and any other circumstances which he may think expedient, with a view to enable the Inclosure Commissioners to judge of the expediency of making the provisional order, having regard as aforesaid, and also, if the order be made, of the provisions to be inserted therein.

Map to accompany report.

(8.) The report shall be accompanied by an outline or other map on such scale and of such a description as may be directed by the Inclosure Commissioners, with a sketch in the case of an inclosure of a common being waste of land, of a manor, of the allotments (if any) proposed to be made for recreation grounds and field gardens, or for either of such purposes.

Rules as to provisional orders.

12. The following rules shall be observed with respect to provisional orders to be made by the Inclosure Commissioners; that is to say,

Draft provisional order to be framed.

(1.) The Inclosure Commissioners, if satisfied by the report of the Assistant Commissioner or by further inquiries to be made by themselves or an Assistant Commissioner, that having regard to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, shall frame, in such form and with such provisions as they, having regard as aforesaid, may think expedient, and as are consistent with law and the description of provisional order applied for, a draft provisional order for the consideration of the persons interested in the common, specifying, if such application is for the regulation of a common, whether all or any one or more of the provisions of this Act for the adjustment of rights and the improvement of a common are to be put in force:

Provisions for benefit of neighbourhood.

(2.) With respect to provisions for the benefit of the neighbourhood, there shall be inserted in such draft provisional order all such of the statutory provisions as defined by this Act for

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the benefit of the neighbourhood as are applicable to the case; also, if the order is an inclosure order in the case of a common being waste land of a manor, the quantity and situation of the allotments (if any) to be made for recreation grounds and field gardens:

Provisions for protection of private interests.

(3.) With respect to private interests, there shall be inserted in such draft provisional order, (1) where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the order, a statement of the allotment (if any) or other compensation to be allotted or made to the lord of such manor in respect of his interest so affected; and (2) where there is any mineral property or other rights in relation thereto belonging to persons other than the lord of the manor which may be affected by the order, such provisions and reservations as are required to be inserted by the Inclosure Acts, 1845 to 1868, or as may appear to the Inclosure Commissioners proper to be inserted; also, if there are any other rights which appear to the Commissioners proper to be specially provided for or to be excepted from the operation of the order, there shall be specified the provisions or exceptions to be made in that behalf:

Deposit of draft order for consideration of parties interested.

(4.) As soon as may be after making their draft provisional order, the Inclosure Commissioners shall cause a copy thereof to be deposited in the parish or parishes in which the common is situate to which such order relates, in order that the same may be considered by the parties interested therein, and they shall give notice, in such manner as they think best calculated to secure publicity, of such deposit having been made, and of their intention to certify the expediency of such order if the necessary consents are obtained thereto:

Consents before provisional order certified to be expedient. 8 & 9 Vict. c. 118. ss. 27, 29.

(5.) The Inclosure Commissioners shall not certify the expediency of a draft provisional order unless they are satisfied that persons representing at least two thirds in value of such interests in the common as are affected by the order consent thereto; and when the common to which the order relates is the waste land of any manor, or land within any manor to the soil of which the lord of such manor is entitled in right of his manor, then, unless there is more than one person interested in such manor according to the definition of the Inclosure Act, 1845, the Commissioners shall not certify

the expediency of the same, unless the person interested in the common in right of such manor, or his substitute under the said Inclosure Act, 1845, consent to such order; and where there is more than one person interested in such manor the Commissioners shall not certify the expediency of the order, in case such persons or the majority of such persons in respect of interest signify their dissent within a time to be limited by the Commissioners:

8 & 9 Vict. c. 118. s. 27. Reservation in favour of freemen interested in common.

(6.) Where the freemen, burgesses, or inhabitant householders of any city, borough, or town are entitled to rights of common or other interest in the common to which the draft provisional order relates, the Inclosure Commissioners shall not certify the expediency of such order unless it appears to the Commissioners that two thirds in number of such of the freemen and burgesses so entitled as may be resident in such city, borough, or town, or within seven miles thereof, or of such inhabitant householders, as the case may be, have consented to the order; and in case two thirds in number of such resident freemen and burgesses, or of such inhabitant householders, have so consented, such consent shall be deemed the consent of the class of freemen, burgesses, or inhabitant householders, as the case may be, so entitled:

Means of obtaining consents.

(7.) The Inclosure Commissioners may cause a meeting or meetings to be held by an Assistant Commissioner for the purpose of obtaining the necessary consents, or of ascertaining the interests of consenting or dissenting parties, or they may cause such consents or dissents to be ascertained in such other manner as they may think fit:

Power to modify provisional order before expediency certified.

(8.) The Inclosure Commissioners may, at any time before certifying the expediency of a draft provisional order, modify the same of their own mere motion, or on the suggestion of any parties interested, but such modifications shall not be of any validity unless they are consented to in the same manner as if they formed part of the draft provisional order originally deposited by the Commissioners:

Certificate of expediency of provisional order.

(9.) When the necessary consents have been obtained to any draft provisional order as originally deposited, or as modified in pursuance of this Act, such order shall be deemed to be final; and the Inclosure Commissioners shall in a report or reports to be made from time to time,

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as respects each provisional order which has become final as aforesaid, certify that it is expedient that such provisional order should be confirmed by Parliament, together with their reasons for certifying such expediency, and specially, as respects each provisional order, they shall, in such manner as they think best adapted to enable Parliament to judge of the expediency of such order, state the information furnished to them as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Commissioners; also the result of the local inquiry, and of the number and description of the persons who attended the meetings held during such inquiry, and the nature of the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted for the benefit of the neighbourhood or for the protection of private interests by the persons so attending, and any other circumstances which the Commissioners may think it expedient to state for such purposes as aforesaid:

Confirmation of provisional order. 8 & 9 Vict. c. 118. s. 32.

(10.) Every report made by the Inclosure Commissioners certifying the expediency of any provisional order under this Act shall be presented to Parliament, and if at any time thereafter it is enacted by Act of Parliament that any order for the regulation or inclosure of a common, the expediency of which has been so certified by the Commissioners, shall be confirmed, the regulation or inclosure of any common to which any such order relates shall be proceeded with and completed according to the terms of the provisional order relating to such common, and to the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, and any Act of Parliament containing such enactments as aforesaid shall be deemed to be a public general Act, but a provisional order, until such Act of Parliament as aforesaid has been passed in relation thereto, shall not be of any validity whatever.

Partial application of procedure under Inclosure Acts.

13. The Inclosure Commissioners may insert in any provisional order for the regulation of a common any provisions they may deem necessary for the purpose of carrying such order into effect; but, subject as aforesaid, when an Act of Parliament has been passed as aforesaid, enacting that the regulation of a common shall be proceeded with, the subsequent proceedings for carrying into effect

the regulation of such common shall be the same, so far as is practicable, as they would be in case such common were to be inclosed instead of being regulated, and the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, shall apply accordingly.

Power to raise money for improvement of common.

14. A provisional order for the regulation of a common may provide for the raising from time to time by such persons interested in the common, and with such amounts as the Commissioners think fit, of money to be applied towards the improvement or protection of such common, either by means of rates to be levied on the persons and in respect of the property who and which respectively will be benefited or principally benefited by such improvement or regulation, or by means of the sale of any outlying or other small portion not exceeding in the whole one-fortieth part of the total area of such common.

Supplemental Provisions.

Provision as to byelaws.

15. Any byelaw made in pursuance of this Act, and any alteration made therein, and any revocation of a byelaw, shall not be of any validity until it has been confirmed by one of Her Majesty's Principal Secretaries of State.

Pecuniary penalties (to be recovered summarily before any two justices) may be imposed by any such byelaws on persons breaking the same, provided that no penalty exceeds for any one offence the sum of forty shillings.

Notice of application for confirmation of byelaws.

16. No such confirmation shall take place unless notice of the intention to apply therefor stating the effect of this section, has been published by the conservators one month at least before the application.

During one month at least before the application a copy of every byelaw, the making, alteration, or revocation of which is submitted for confirmation, shall be kept at the office of the person or body of persons making, altering, or revoking such byelaw open for inspection by persons interested, and such person or body of persons shall furnish a printed copy thereof to every person applying for the same on payment of a sum not exceeding one shilling for each copy.

Provision as to certain expenses under order for regulation of a common.

17. Subject to the terms of the provisional order the amount of any compensation to be paid for any restriction, modification, or abolition of rights in pursuance of an order for the regulation of a common shall be deemed to be expenses of and incidental to the regulation of the common, and may be defrayed accordingly.

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Definition of power of Charity Commissioners in certain cases.

18. Whereas by several awards made under the authority of Inclosure Acts prior to the year one thousand eight hundred and forty-five, fuel allotments for the poor have been set out and awarded, and vested in divers persons and bodies of persons as trustees of such allotments:

And whereas under the provisions of the Inclosure Acts, 1845 to 1868, and the several Acts of Parliament and awards made thereunder, allotments for recreation grounds and field gardens have been set out and awarded to the churchwardens and overseers of parishes and other persons:

And whereas power is claimed by the Charity Commissioners for England and Wales and by other bodies, under divers Acts of Parliament, to divert such allotments from the uses declared by Parliament respecting the same: Be it enacted, that after the passing of this Act, notwithstanding anything in any other Act contained, it shall not be lawful (save as herein-after mentioned) to use any such allotment, or any part thereof, for any other purpose than those declared concerning the same by the Act of Parliament and award, or either of them, under which the same has been set out: Provided, that it shall be lawful for the said Charity Commissioners, upon the written application of the trustees of any fuel allotment, and with their consent and the consent in writing of two thirds of the persons for whose benefit the said allotment was set out, to authorise the use of such fuel allotment as a recreation ground and field gardens, or for either of those purposes, and to make an order under the provisions of "The Charitable Trusts Act, 1860," for the establishment of a scheme for the administration of such fuel allotment accordingly.

Part II.

Amendment of the Inclosure Acts.

Field Gardens and Recreation Grounds.

Expenses of clearing, draining, and fencing field gardens.

19. Whereas it is expedient that the expenses of clearing any allotments made for field gardens may be included in the expenses of an inclosure: Be it enacted, that the valuer shall, unless the Inclosure Commissioners otherwise direct, cause every allotment made for a field garden to be cleared, drained, fenced, levelled, and otherwise made fit for immediate use and occupation; and the expenses incurred by the valuer under this section shall be paid as part of the general expenses of the inclosure.

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Substituted allotments for recreation grounds and field gardens. 9 & 10 Vict. c. 70. s. 4. Com. 1869, rec. 12.

20. The provisions of the Inclosure Acts, 1845 to 1868, which authorise the Inclosure Commissioners to allow an equal quantity of the land proposed to be inclosed to be allotted for the purpose of a recreation ground or field garden, or for any other public purpose, in lieu of that directed to be allotted by any provisional order, shall extend to authorise them to allow the allotment of land of equal value although it may not be of equal quantity.

Situation of allotments for recreation grounds and field gardens. 8 & 9 Vict. c. 118. s. 74.

21. Every allotment made for the purpose of a recreation ground or field garden shall be in such part of the land proposed to be inclosed as is best suited for the purpose for which it is appropriated, and where any land proposed to be inclosed consists partly of common being waste land of a manor (in this section referred to as the first-mentioned land), and partly of common not being waste land of a manor (in this section referred to as the second-mentioned land), and the Commissioners are satisfied that it would be advantageous that the allotment for a recreation ground or a field garden, or any part thereof, should be made out of the second-mentioned land instead of out of the first-mentioned land, the Commissioners may, in the provisional order relating to such land, specify as one of the terms and conditions of the inclosure thereof that the said allotments or the said part thereof shall be made accordingly out of the second-mentioned land, and shall out of the first-mentioned land allot land of equal value by way of exchange to the persons interested in the second-mentioned land.

Amendment of law as to letting field gardens.

8 & 9 Vict. c. 118. s. 109.

22. Whereas by the Inclosure Act, 1845, allotment wardens are required to let the allotments under their management to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, and are further required to demand in respect of such letting, a rent not below the full yearly value of the land to be ascertained in manner in the said Act mentioned; and whereas it is expedient to amend the said provisions: Be it enacted that allotment wardens, if they are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, may let the same, or any unlet portion thereof, in gardens not exceeding an acre each to such inhabitants as aforesaid: Further, it shall be the duty of allotment wardens to offer the gardens under their management to the poor inhabitants of the parish at a fair agricultural rent, if from time to time sufficient to satisfy all rates, taxes, tithes, tithe rentcharge, and the rentcharge charged on the said allotments under the provisions of "The General Inclosure Act, 1845," but not otherwise, instead of at such rent as is required

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by the said Act. Moreover, if in any parish the allotment wardens are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in such quantities and at such rents as aforesaid, they may let the same, or such portion as may be unlet to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the allotment wardens to resume possession thereof within a period not exceeding twelve months, if it should at any time be required for such poor inhabitants as aforesaid.

This section shall apply to all land allotted to the poor under any Inclosure Act whatever, whether public or private, whether under the management of allotment wardens, feoffees, trustees, rector, or vicar and churchwardens, overseers, managers, or any other person or persons whatever, and whether at present cultivated or uncultivated, except recreation ground, so that all such persons as aforesaid shall have like powers and duties as are herein-before given to and imposed upon allotment wardens.

Application of surplus rents of recreation grounds and field gardens. 8 & 9 Vict. c. 118. ss. 73. 112.

23. Whereas by section seventy-three of the Inclosure Act, 1845, the surplus rents arising from recreation grounds are applicable in aid of the rates for the repair of the public highways in the parish or respective parishes in which the said grounds are situate, and by section one hundred and twelve of the same Act the surplus rents arising from field gardens are payable to the overseers of the poor in aid of the poor rates of the parish: And whereas it is expedient to amend the said provisions: Be it enacted, that the surplus rents arising from recreation grounds shall from and after the passing of this Act cease to be applied in manner provided by the said seventy-third section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the recreation grounds or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood; and the surplus rents arising from field gardens shall, from and after the passing of this Act, cease to be applied in manner provided by the said one hundred and twelfth section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the field gardens or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for field gardens in the same parish or neighbourhood.

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The trustees of any recreation ground and the allotment wardens of any field gardens may, with the approval of the Inclosure Commissioners, sell all or any part of the allotment vested in them, and out of the proceeds of such sale purchase any fit and suitable land in the same parish or neighbourhood: Provided, that the land so purchased shall be held in trust for the purposes for which the allotment so sold as aforesaid was allotted, and for no others; and provided, that the Inclosure Commissioners shall not sanction any such sale as aforesaid unless and until it shall be proved to their satisfaction that land more suitable for the purposes for which the allotment proposed to be sold was allotted may and will be forthwith purchased; and the proceeds of any such sale shall be paid to the Inclosure Commissioners, and shall remain in their hands until such purchase of other land as aforesaid.

Reports to be made by managers of recreation grounds and field gardens.

24. The trustees of recreation grounds, where such trustees are the overseers or churchwardens of a parish, and the allotment wardens of field gardens shall, from time to time, and at such intervals of not less than three years nor more than five years, as the Inclosure Commissioners direct, make such reports to the said Commissioners in respect of the recreation grounds and field gardens under their management, with such particulars of the rents received by them, as the Commissioners may require.

Amendment of law as to town and village greens. 20 & 21 Vict. c. 31. s. 12.

25. Whereas by the Inclosure Act, 1857, provision is made for the protection of town and village greens, and recreation grounds, and it is expedient to amend such provision: Be it enacted as follows, that is to say, an encroachment on or inclosure of a town or village green, also any erection thereon or disturbance of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section twelve of the said Inclosure Act, 1857, he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground is situate, as well as upon the information of such persons as in the said section mentioned.

This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.

Jurisdiction of county court in respect of illegal inclosures.

26. A county court within whose jurisdiction any common or part of a common is situate shall have jurisdiction to hear any case relating to any illegal inclosure or encroachment of or upon such common or part of a common respectively made after the passing of

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this Act, or to any nuisance impeding the exercise of any right of common arising after the passing of this Act, and to grant an injunction against such inclosure, encroachment, or nuisance, or to make an order for the removal or abatement of such inclosure, encroachment, or nuisance.

Any person aggrieved by any injunction granted or order made or refusal to grant an injunction or make an order by a county court in pursuance of this section may, on giving security for costs to the satisfaction of the county court, appeal to the High Court of Justice in a summary manner, or by special case or otherwise, as may be prescribed by rules of court to be made by the Supreme Court of Judicature in manner provided by the seventeenth section of the Supreme Court of Judicature Act, 1875.

The appellate court may on hearing the appeal reverse, modify, or confirm the injunction or order complained of, or remit the case to the county court from which the appeal lay, with instructions to deal with the case according to the directions given by the appellate court.

Where an appeal is lodged against the order of a county court directing the removal or abatement of any inclosure, encroachment, or nuisance, such order shall be suspended during such time as such appeal is pending.

Nothing in this Act contained shall abridge or interfere with any existing right of abating or otherwise preventing any illegal inclosure of or encroachment on any common, or any nuisance interfering with any right of common.

Until rules of court are made for the purposes of this section, an appeal may be had from the decision of any county court under this section in the same manner in which an appeal from the decision of a county court may be had in a case within its ordinary jurisdiction.

Appointment of valuer to be confirmed by Commissioners.

27. An appointment of a valuer after the passing of this Act shall not be valid until it has been confirmed by the Commissioners. The Commissioners may disapprove of a valuer on the ground of his incompetency, interest, want of impartiality, or any reasonable cause, and where they so disapprove of a valuer may call a meeting, and a meeting may be held to appoint, and another person appointed (subject to the approval of the Commissioners) to be valuer in like manner as if no previous meeting had been held, and no valuer had been previously appointed, and so on until a valuer approved by the Commissioners is appointed.

General Amendments.

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Substitution of Summary Jurisdiction Act, 11 & 12 Vict. c. 43. for repealed Act 7 & 8 Geo. 4. c. 30. in certain sections of the Inclosure Acts.

28. There shall be repealed so much of section ten of the Inclosure Act, 1848, and of section ten of the Inclosure Act, 1849, and of section thirty-three of the Inclosure Act, 1852, as incorporates or refers to any provisions of the Act of the seventh and eighth years of the reign of King George the Fourth, chapter thirty, intituled "An Act for consolidating and amending the laws in England relative to malicious injuries to property," and which last-mentioned provisions have since been repealed, and in place thereof be it enacted, that—

11 & 12 Vict. c. 99. s. 10. 12 & 13 Vict. c. 83. s. 10. 15 & 16 Vict. c. 79. s. 33.

Any offence under section ten of the Inclosure Act, 1848, and under section ten of the Inclosure Act, 1849, and under section thirty-three of the Inclosure Act, 1852, shall be deemed to be an offence punishable on summary conviction under "The Act of the "session of the eleventh and twelfth years of the reign of Her "present Majesty, chapter forty-three, intituled, 'An Act to "'facilitate the performance of the duties of justices of the peace "'out of sessions within England and Wales with respect to "'summary convictions and orders,'" and the Acts amending the same: Provided that any penalty or forfeiture incurred shall be applied in manner provided by the said Inclosure Acts, and that any information in relation to any such offence as is mentioned in this section shall be heard, tried, determined, and adjudged before two justices.

Extension of Sec. 105. of the Inclosure Act, 1845, as to exchanges and partitions.

29. The provisions of section one hundred and five of the Inclosure Act, 1845, relating to the validity after confirmation of an award of inclosure of the exchanges, and partitions set forth in such award, shall apply to orders of exchange, partition, and division of intermixed lands carried into effect in pursuance of the Inclosure Acts, 1845 to 1868, by separate orders, and not included in an award of inclosure.

Part III.

Miscellaneous.

Repeal of certain parts of the Inclosure Act, 1845, and amendment of law as to reports.

30. There shall be repealed so much of section thirty of the Inclosure Act, 1845, as prescribes a limit to the quantity of land to be allotted to recreation grounds; also the twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh sections of the Inclosure Act, 1845, and the Inclosure Commissioners shall not be required to repeat, in their general annual report, any of the particulars in relation to the regulation or inclosure of commons which they may have stated in any other reports made by them in pursuance of this Act in

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relation to such commons, but they may refer to such other reports, or give a summary thereof, or otherwise deal with the same as may be thought expedient.

Act not to apply to metropolitan commons.

31. This Act shall not apply to any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 and 1869.

A common regulated under Act not to be inclosed without sanction of Parliament.

32. Where an Act of Parliament has been passed confirming a provisional order under this Act for the regulation of a common, then, subject to and without prejudice to the provisions of that order, such common shall not, nor shall any part thereof, be inclosed without the sanction of Parliament subsequently obtained.

Definitions.

Definitions.

33. In this Act, unless the context otherwise requires,—

"A common" means any land subject to be inclosed under the Inclosure Acts, 1845 to 1868:

8 & 9 Vict. c. 118. s. 30.

"Waste land of a manor" means and includes any land consisting of waste land of any manor on which the tenants of such manor have rights of common, or of any land subject to any rights of common which may be exercised at all times of the year for cattle levant and couchant, or to any rights of common which may be exercised at all times of the year, and are not limited by number or stints:

"Person" includes a body corporate:

"Inclosure Acts, 1845 to 1868," means the Acts mentioned in the schedule hereto, and each of the Acts mentioned in the said schedule may be cited by the short title in such schedule in that behalf mentioned; and the above mentioned Acts together with this Act may be cited as "The Inclosure Acts, 1845 to 1876:"

"Municipal borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of "municipal corporations in England and Wales," and the Acts amending the same:

"Improvement Act district" means any area subject to the jurisdiction of any commissioners, trustees, or other persons invested by any local Act of Parliament with powers of improving, cleansing, lighting, or paving any town:

"Local government district" has the same meaning as it has in the Public Health Act, 1875.

SCHEDULE.

Year and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 118.	An Act to facilitate the inclosure and improvement of commons and lands held in common, the exchange of lands, and the division of intermixed lands; to provide remedies for defective or incomplete executions, and for the non-execution of the powers of general and local Inclosure Acts, and to provide for the revival of such powers in certain cases.	The Inclosure Act 1845.
9 & 10 Vict. c. 70.	An Act to amend the Act to facilitate the inclosure and improvement of commons.	The Inclosure Act 1846.
10 & 11 Vict. c. 111.	An Act to extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act 1847.
11 & 12 Vict. c. 99.	An Act to further extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act 1848.
12 & 13 Vict. c. 83.	An Act further to facilitate the inclosure of commons and the improvement of commons and other lands.	The Inclosure Act, 1849.
14 & 15 Vict. c. 53.	An Act to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the completion of proceedings under the Tithe Commutation Acts.	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79.	An Act to amend and further extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act 1852.
17 & 18 Vict. c. 97.	An Act to amend and extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act 1854.
20 & 21 Vict. c. 31.	An Act to explain and amend the Inclosure Acts.	The Inclosure Act, 1857.
22 & 23 Vict. c. 43.	An Act to amend and extend the provisions of the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1859.
31 & 32 Vict. c. 89.	An Act to alter certain provisions in the Acts for the commutation of tithes, the Copyhold Acts, and the Acts for the inclosure, exchange, and improvement of land, and to make provision towards the expense of the Copyhold, Inclosure and Tithe Office.	The Inclosure, &c. Expenses Act, 1868.

Commons.

A

BILL

[AS AMENDED IN COMMITTEE]

For facilitating the regulation and improvement of Commons, and for amending the Acts relating to the Inclosure of Commons.

(Prepared and brought in by Mr. Secretary Cross and Sir Henry Selwin-Ibbetson.)

Ordered, by The House of Commons, *to be Printed,* 8 *June* 1876.

[Bill 184.]

Under 4 *oz.*

LORDS AMENDMENTS

TO THE

COMMONS BILL.

Note.—*The page and line refer to the Bill* (139.) *as first printed by the Lords.*

Page 3.

Line 15, after ("common") insert ("or may state that all or "any of such subjects are to be provided for in the pro- "ceedings subsequent to the confirmation of the provisional "order by Parliament")

Page 5.

Line 23, leave out ("or any part of a common")

Line 25, leave out ("or part of a common")

Page 7.

Lines 3 and 4, leave out ("outer boundary of the") and insert ("town hall, or if there shall be no town hall, then from "the cathedral or church if there shall be only one church, "or if there be more churches than one, then from the "principal market place of such")

Line 4, after ("common") insert ("when part only of a "common is situate within the aforesaid distance from a "town, such part shall be deemed for the purposes of this "section to be a common separate and distinct from the part "situated without and beyond such distance")

Page 9.

Line 35, leave out ("previously to holding such meeting")

Pages 14, 15.

Transpose sub-sections ("(10.)") and ("(11.)")

[Bill 273.]

Page 16.

After line 1 insert clause (A.) :

CLAUSE (A.) Owners may make byelaws.

The majority in value of the owners of skirts or rights of pasture in any regulated pasture created under the provisions of the General Inclosure Act, 1845, in addition to the powers they now possess are hereby authorised at any annual meeting for the election of field reeves to make byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the regulated pasture, and for general management, occupation, and enjoyment of the regulated pasture, provided the consent of the lord of the manor is given to such byelaws.

Page 17.

Line 6, leave out from ("Acts") to ("of") in line 9, and insert ("upon the application of the trustees")

Line 15, leave out ("with such consent") and insert ("on "such application")

Leave out clause 19.

Page 19.

Line 9, leave out ("all charge") and insert ("any such rent-"charge")

Page 20.

Line 5, after ("poor") insert ("for the purpose of cultiva-"tion")

Line 10, leave out ("except recreation ground")

Page 22.

Line 29, leave out ("publish") and insert ("give notice to "all persons claiming any legal right in such common or "part of a common, by publishing "), and leave out ("notice") and insert ("statement")

Line 33, after ("situate") insert ("but the provisions of this "section shall not apply to any commons or waste lands "whereon the rights of common are vested solely in the "lord of the manor")

Page 23.

Leave out clause 33.

LORDS AMENDMENTS

TO THE

COMMONS BILL.

Ordered, by The House of Commons, *to be Printed*,
26 *July* 1876.

[Bill 273.]

Under 1 *oz.*

A

B I L L

TO

Amend "The Companies Acts, 1862 and 1867." A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title.

1. This Act may be cited for all purposes as "The Companies Amendment Act, 1876."

Companies Acts, 1862, and 1867, and 1876.

2. This Act shall, so far as consistent with the tenor thereof, be construed as one with the Companies Act, 1862, as amended by the Companies Act, 1867; and the expression "this Act" in the Companies Act, 1862, or in the Companies Act, 1867, and any expression referring to the said Act or Acts which occurs in any Act or other document, shall be construed to mean the Companies Act, 1862, as amended by the Companies Act, 1867, and by this Act. The said Acts and this Act may for all purposes be referred to as "The Companies Acts, 1862, 1867, and 1876."

Commencement of Act.

3. This Act shall come into force on the *second day of November one thousand eight hundred and seventy-six*, which date is hereinafter referred to as the commencement of this Act.

Prospectus not to be issued before copy, signed by directors, is sent to Registrar.

4. *After the commencement of this Act*, it shall not be lawful for any person to issue or cause to be issued any prospectus or notice announcing for subscription or containing an invitation to subscribe to any share, bond, debenture, or other capital of any Company under these Acts before such Company shall have been duly registered under these Acts.

Repeal of 30 & 31 Vict. c. 131. s. 38, and provisions in

5. Subject and without prejudice to any right acquired or any liability incurred thereunder before the commencement of this Act, section thirty-eight of the Companies Act, 1867, is hereby repealed;

A.D. 1876.

reference to prospectus in lieu thereof.

and instead thereof the following enactment shall take effect, that is to say, every prospectus or notice announcing for subscription or containing an invitation to subscribe to any share, bond, debenture, or other capital of any Company under these Acts shall comply with the following requirements :

Names of vendors and prices last five years.

(*a.*) It shall state the names, addresses, and occupations of the vendors of any business or property intended to be sold to or to be acquired by such Company, and whether such vendors are the owners of such business or property, or have acquired the same for the purpose of transfer to such Company :

(*b.*) The dates and the names of the parties to and the material contents of every contract made before the issue of such prospectus or notice by or on behalf of such Company, or by any promoter, director, or trustee thereof, where such contract is to be carried into effect out of the funds or capital of the Company to be subscribed under such prospectus or notice, or is for the benefit of such promoter, director, or trustee :

Copy memorandum of association.

(*c.*) It shall contain a copy of the memorandum of association of the Company, and of the names, addresses, and occupations of the persons who have signed the same, and the number of shares in the Company agreed to be taken by each of such persons :

Names, &c. of persons receiving commission, &c.

(*d.*) It shall contain a statement of the names, addresses, and occupations of all persons who have contracted for or shall have become entitled to receive any commission, brokerage, or agency charges in reference to or contingent upon the formation of the Company, or the subscription for or issuing of any of its capital, and the amount or rate thereof, and whether payable by the vendors or by the Company, or jointly by the vendors and the Company, and in what proportions :

Proportion of capital to be subscribed.

(*e.*) It shall specify what proportion (such proportion not being less than one half) of the capital offered for subscription is required as a minimum to be subscribed, in order that the Company may commence business or allot the capital so offered for subscription, or any portion thereof :

Every prospectus or notice which shall not comply with the aforesaid requirements shall be deemed to be fraudulent on the part of every promoter, director, trustee, or officer of such Company who shall have knowingly issued or been concerned in the issue of such prospectus or notice as regards any person applying or

subscribing for any share, bond, debenture, or other capital in the Company on the faith of such prospectus or notice, unless such person shall have had notice of the omitted particulars.

Allotment not binding after time specified.

6. No application for the allotment of any capital in pursuance of any such prospectus or notice shall be binding on the applicant unless the bonâ fide subscription at the time of such allotment of capital amount to at least the proportion of the total amount of such capital stated in the prospectus or notice, and if no such proportion be so stated, to the whole amount of such capital as shall be offered in such prospectus or notice; and no such allotment shall be binding unless made within *two months* from the date of the prospectus or notice, or within *twenty-eight days* of the date of the delivery of the application for such capital.

List of allottees to be sent to each allottee.

7. Within *seven days* after the making of any allotment of any share, bond, debenture, or other capital, the Company shall cause to be printed and sent to every allottee a list of the names and addresses of all the allottees of such capital.

Form of balance sheet and profit and loss statement.

8. Every balance sheet which shall be issued by any Company after the expiration of *thirty days after the commencement of this Act* shall be in the form marked A in the schedule to this Act, or as near thereto as practicable, and there shall be annexed to such balance sheet a profit and loss statement, in the form set forth in the said schedule and marked B, or as near thereto as circumstances will admit, and a copy of such balance sheet and statement, signed by two at least of the directors, and by the auditor (if any), certifying the correctness thereof, shall be deposited with the Registrar of Joint Stock Companies before or at the time the same shall be issued to the shareholders.

Companies already established to prepare balance sheet and profit and loss statements.

9. *After the commencement of this Act,* the directors of every Company established under the Companies Acts shall, not less than once in every year, prepare a report of their proceedings and of the Company's operations, (such report to contain the names of the directors, managers, bankers, solicitors, auditors, and secretary of the Company,) and a balance sheet and statement of profit or loss, such as described in the foregoing section; and a copy of such report and also of such balance sheet and statement shall, at the option of such Company, be sent to the registered address of every member of the Company, or be deposited at the Company's office, for the inspection of every member, seven days at least before every ordinary meeting of the Company.

A.D. 1876.

Proceedings on omitting to prepare balance, sheet, &c.

Judge may order balance sheet to be prepared and directors to attend court.

10. If any Company shall fail to prepare and issue, or deposit for inspection, once at least in every year such balance sheet and profit and loss statement, or if such balance sheet or profit and loss statement shall omit any material information specified in the forms in the said schedule, it shall be lawful for any member of the Company, within *fourteen days* after the issue thereof, to apply by summons to any judge of the High Court of Justice for an order requiring the directors of the Company within *twenty-one days* to issue such balance sheet and statement, or to amend such balance sheet and statement, or to attend before the judge in chambers and show cause why the balance sheet or profit and loss statement should not be amended, and the judge shall, upon the hearing of such summons, make such order and give such directions as to him may seem fit in respect of such balance sheet and statement and other matters consequent upon the alteration therein, and, if he shall think fit, shall direct that the costs, charges, and expenses of and consequent upon the application shall be payable by the Company, or personally by any director or officer thereof, or by the members making the application.

The total authorised capital of the Company is £_____ in _____ shares of £_____ each, _____ and £_____ on mortgage, or in mortgage debenture bonds.
The total subscribed „ „ £_____ in _____ „ £_____ „ _____ and £_____ „ „ „ „

DR. (*State preference shares or any other authorised capital, and amount subscribed.*) CR.

CAPITAL AND LIABILITIES.

	£ s. d.	£ s. d.
SHARE CAPITAL.—		
———Shares £———called up	-	
Amount paid in advance of calls	-	
(The amount of arrears on calls owing is £)	- - - -	
(*Insert preference shares, &c., if any.*)		
MORTGAGES.—		
Amount owing on mortgage or debentures		
DEBTS.—		
Amount owing on acceptances by the Company	- - -	
Do. ordinary trade accounts	-	
Do. *special items separately, such as rents, royalties, wages due, unclaimed interest or dividends, law expenses, &c., &c.*	- - -	
RESERVE FUND.—		
Balance of (invested as below)*	-	
PROFIT.—		
Total gross profit for the year	-	
Less interest and interim dividends paid, as per profit and loss statement		
		£

PROPERTY AND ASSETS.

	£ s. d.	£ s. d.
PROPERTIES.—		
Freehold and leasehold land and other properties, as per last year's balance sheet (or as per valuation)	- -	
(*Insert principal items, and state if by valuation, and how and when made.*)		
Add additions during the year (specifying same)	- - - -	
Less depreciation (if not by valuation)	-	
Machinery and plant, including rolling stock, last year (or as per valuation)	-	
Add additions during the year	- -	
Less depreciation	- - -	
STOCK-IN-TRADE, as per inventory and valuation	- - - -	
GOOD DEBTS owing to the Company	-	
Debts owing to Company, special, doubtful, or bad (estimated to produce)	- -	
BALANCE of cash in bank	- - -	
Do. do. in hand	- -	
(*Any other special assets or liabilities to be set forth.*)		
		£
(*Balance loss, if any, to be shown here*)		
		£

* *MEMORANDUM.—INVESTMENT OF RESERVE FUND.*

In Government Securities	-
Mortgage and other bonds	-
Extension of works and business	-
Engaged or used in business	-
Other modes of investment	-
	£

A 3

SCHEDULE B.

PROFIT AND LOSS ACCOUNT of the _____ Company, Limited, for the year (*or* half year) ending _____ 187 , showing the appropriation of the total Gross Profits on the Business of the Company.

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To payments and liabilities on account of capital and management during the year, viz.:			By gross profits for the year, as per Balance Sheet (being the result of the year's operations after payments for materials, wages, current and working expenses)		
			(*To be stated in one sum as above, or under various heads, showing result in each department.*)		
INTEREST on mortgages paid - -					
Do. do. owing -					
Do. debenture bonds paid - -					
Do. do. owing -					
Do. on calls paid in advance -					
Do. on reserve fund at 5 per cent.					
		£			
Directors and Auditors remuneration for the year - - -					
Amount carried to reserve fund -			(*Balance loss, if any, to be shown here*) -		
Interim dividend paid on share capital					
Do. preference do. - -					
Further dividend on share capital, making ——— per cent. for the year					
Do. on preference share capital, making ——— per cent. for the year -					
Balance carried to next account -					
		£			
		£			£

DIRECTORS AND MANAGER'S CERTIFICATE.

We have examined the above Balance Sheet and Statement of Profit and Loss, and certify that, to the best of our knowledge and belief, the same are correct.

_____ } DIRECTORS.
_____ }

Dated this _____ *day of* _____ 187 .

_____ { GENERAL MANAGER *or* MANAGING DIRECTOR.

_____ SECRETARY.

AUDITORS CERTIFICATE.

We have examined the above Balance Sheet and Statement of Profit and Loss, and compared the same with the books of account of the Company, and with the vouchers and stock accounts, and the bankers and other balances, and have examined the schedules of assets and liabilities, and certify that such Balance Sheet and Statement are, to the best of our knowledge and belief, correct.

Name. Business.

_____ _____ } AUDITORS.

The Companies Amendment Act, 1876.

A

B I L L

To amend "The Companies Acts, 1862 and 1867."

(*Prepared and brought in by*
Mr. D. Chadwick, Sir Henry M. Jackson,
Mr. Sampson Lloyd, Mr. P. Rylands,
Mr. C. Hopwood, and Mr. B. Whitworth.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1876.

[Bill 211.]

Under 1 *oz.*

A

B I L L

TO

Repeal the Contagious Diseases Acts, 1864, 1866, and 1869. A.D. 1876.

WHEREAS it is expedient to repeal the Contagious Diseases Acts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The several Acts set forth in the Schedule to this Act shall be and the same are hereby repealed as from the *passing of this Act*. Repeal of Acts.

SCHEDULE.

(1.) The Contagious Diseases Prevention Act, 1864.
(2.) The Contagious Diseases Act, 1866.
(3.) The Contagious Diseases Act, 1869.

Contagious Diseases Acts Repeal.

A

B I L L

To repeal the Contagious Diseases Acts, 1864, 1866, and 1869.

(*Prepared and brought in by Sir Harcourt Johnstone, Bart., Mr. Whitbread, and the Rt. Hon. James Stansfeld.*)

Ordered, by The House of Commons, *to be Printed,* 10 *February* 1876.

[Bill 55.]

Under 1 *oz.*

A

B I L L

FOR

The repeal of the Act of the Irish Parliament, the thirty-third George the Third, chapter twenty-nine, intituled "An Act to prevent the election or appointment of unlawful Assemblies." A.D. 1876.

WHEREAS it is expedient that the law of Ireland with reference to public meetings should be assimilated to that of England:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same:

1. That a certain Act of the Parliament of Ireland, passed in the thirty-third year of His late Majesty King George the Third, intituled "An Act to prevent the election or appointment of unlawful assemblies," shall be and is hereby repealed. Repeal of the Act of the Parliament of Ireland, 33 G. 3. c. 29.

2. This Act may be cited for all purposes as the Convention (Ireland) Act Repeal Act. Short title.

Convention (Ireland) Act Repeal.

A

BILL

For the repeal of the Act of the Irish Parliament, the thirty-third George the Third, chapter twenty-nine, intituled, "An Act to prevent the "election or appointment of unlawful "Assemblies."

(*Prepared and brought in by Mr. P. J. Smyth, Mr. Ronayne, and Mr. O'Clery.*)

Ordered, by The House of Commons, *to be Printed* 5 *May* 1876.

Bill 143.]

Under 1 *oz.*

A

B I L L

TO

Enable Courts and Justices to send to a Certified Reformatory School, without previous Imprisonment, young Children of tender age, when convicted of certain Felonies and Misdemeanors. A.D. 1876.

WHEREAS it is desirable that in certain cases courts and justices should be empowered to order youthful offenders of tender age, when convicted before them on indictment, or in a summary manner, to be sent to certified reformatory schools without undergoing previous imprisonment:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Courts and justices may send convicted children under certain ages direct to reformatory schools without imprisonment.

1. Whenever any offender, who in the judgment of the court, justices, or magistrate before whom he is charged with some crime or offence punishable with penal servitude or imprisonment, is above the age of ten years and under the age of twelve years, and has not been previously charged with some crime or offence so punishable, is convicted on indictment or in a summary manner, or whenever any offender, who in the judgment of the court, justices, or magistrate before whom he is charged, is under the age of ten years, is convicted on indictment or in a summary manner of a crime or offence punishable with penal servitude or imprisonment, or whenever any offender, under the provisions of the Industrial Schools Act, 1866, may be sent to an industrial school, but it is considered necessary or expedient that he should be sent to a reformatory and not to an industrial school, it shall be lawful in any such case for such court, justices, or magistrate to order him to be sent to a certified reformatory school, without undergoing imprisonment or other punishment.

[Bill 192.]

A.D. 1876.

Child may be sent to workhouse while inquiry respecting a school is being made.

2. And while inquiry is being made respecting a reformatory school to which such offender may be sent it shall be lawful for such court, justices, or magistrate to order the child so convicted to be taken to a workhouse or other place, and therein detained in the manner and for the term prescribed, in the case of a child ordered to be sent to an industrial school under the provisions of the 29th and 30th Victoria, chapter 118, section 19.

Construction of certain words.

3. The words "court, justices, or magistrate" shall be construed as in the Reformatory Schools Act, 1866.

Extent and short title of Act.

4. This Act shall not extend to Ireland, and shall be cited as the Convicted Children's Act, 1876.

Convicted Children.

A

BILL

To enable Courts and Justices to send to a certified Reformatory School, without previous Imprisonment, young Children of tender age, when convicted of certain Felonies and Misdemeanors.

(*Prepared and brought in by*
Sir Eardley Wilmot, Mr. Floyer, and
Mr. Serjeant Simon.)

Ordered, by The House of Commons, *to be Printed,*
14 *June* 1876.

[Bill 192.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law respecting certain Returns from Convict Prisons.

A.D. 1876.

WHEREAS by section fourteen of the Act of the fifth year of the reign of King George the Fourth, chapter eighty-four, intituled "An Act for the Transportation of Offenders from Great "Britain"; it is enacted as follows:

"The said superintendent shall from time to time make returns "specifying the name of every person in custody in each of such "places of confinement, the offence of which he shall have been "guilty, the court before which he shall have been convicted, and "the sentence of such court, together with his age and bodily state, "and his behaviour whilst in custody; and also the names of such "offenders as shall have died whilst in such custody, or shall have "escaped, or have been lawfully discharged from the same, which "returns shall be made on the first day of January, April, July, and "October, in every year to one of His Majesty's Principal Secretaries "of State, on the oath of the overseer of each place of confine-"ment, such oath to be made before a justice of the peace."

And it is expedient to make further provisions respecting such returns:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the "Convict Prisons Returns Act, 1876."

Returns from convict prisons.

2. There shall be from time to time sent to one of Her Majesty's Principal Secretaries of State such returns respecting the prisoners in every place of confinement to which the recited Act applies, as such Secretary of State may from time to time direct.

Section fourteen of the above recited Act is hereby repealed.

Convict Prisons (Returns).

A

BILL

To amend the Law respecting certain Returns from Convict Prisons.

(*Prepared and brought in by Sir Henry Selwin-Ibbetson and Mr. Secretary Cross.*)

Ordered, by The House of Commons, *to be Printed*, 3 *July* 1876.

[Bill 227.]

Under 1 *oz.*

A

BILL

TO

Amend the Law relating to Coroners and Inquests in the County of the City of Dublin. A.D. 1876.

WHEREAS it is expedient to authorise coroners in the county of the city of Dublin to appoint deputies to act in their stead in certain cases, and to make provision with respect to the duties and powers of such coroners and deputies, and to amend the law with respect to the number and payment of coroners, and the expenses of inquests, and to provide compensation for coroners obliged to give up their office:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal.

1. *From and after the passing of this Act* the several parts of the Acts in the Schedule A. to this Act hereunto annexed, in so far as they may be inconsistent with or repugnant to the provisions of this Act, but no further, shall be, and the same are hereby repealed.

Appointment of deputy.

2. In case of the illness or unavoidable absence of any coroner for the time being of the county of the city of Dublin, he is empowered and hereby required, by writing under his hand and seal, to appoint a fit and proper person, qualified as by this Act required for election as coroner, to act for him as deputy coroner during the illness or unavoidable absence of such coroner, but no longer or otherwise: Provided always, that the Lord Mayor of Dublin, or two justices of the county of the city of Dublin, shall, on each occasion, certify under their hands and seals the necessity of the appointment of such deputy coroner, and such certificate shall state the cause of the absence of such coroner, and shall be openly read to every inquest jury summoned by such deputy coroner; and the particulars of every inquest holden by such deputy coroner shall

A.D. 1876.

be included in the return to be made by such deputy coroner in like manner as if the same were made by such coroner.

Qualification of coroner.

3. *From and after the passing of this Act* no person shall be elected or chosen to the office of coroner of the county of the city of Dublin unless at the time of being so elected or chosen he in addition to possessing such statutable qualification as is at present required is further qualified as follows; that is to say,

(*a.*) Is duly qualified to practice medicine or surgery, and registered as so qualified under the Medical Act of 1858, or any Act amending the same; or

(*b.*) Is a barrister-at-law; or

(*c.*) Is on the roll of solicitors or attorneys in one of the superior courts at Dublin; or

(*d.*) Is a justice of the peace of five years standing.

Remuneration of coroner.

4. It shall and may be lawful to and for the grand jury to present for the payment of any coroner within the said county of the city of Dublin the sum of *one pound ten shillings* sterling for each and every inquest held by him respectively since the last assizes or presenting term, or since his last application for a presentment; and such grand jury shall present in addition thereto, and over and above such payment, such further and other sum at the rate of *sixpence* per mile for every mile which such coroner shall have been obliged to travel from his usual place of residence for the purpose of taking such inquest, or of holding any inquiry in virtue of his office on the requisition in writing of the police, prison, or lunatic asylum authorities: Provided always, that whenever any coroner shall have held more than one inquest or inquiry on the same day, then in respect of such inquest or inquiry taken or held after the first the said sum of *sixpence* per mile shall be computed and paid to such coroner for every additional mile only which he shall have been compelled to travel in consequence of holding more than one inquest or inquiry on the same day.

Payment of witnesses.

5. *From and after the passing of this Act* it shall be lawful for any coroner or deputy coroner by whom an inquest is held in the county of the city of Dublin to pay to any poor witness for each day of attendance at such inquest any sum, not exceeding *two shillings* per day, as shall seem just and reasonable.

Superannuation of coroner.

6. *From and after the passing of this Act* no person shall continue to hold the office of coroner for the county of the city of Dublin after he has attained the age of seventy years, or after he has become incapable, from ill-health or infirmity, to discharge the

A.D. 1876.

duties of his office, and every coroner for the county of the city of Dublin who has been declared by certificate from the Court of Queen's Bench in Ireland as in this clause herein-after mentioned to have attained the age of sixty years and served in that office for twenty-one years, shall be entitled, at his option, to retire from the office of coroner; and it shall be lawful for every such coroner who may so desire to retire at the age of sixty years after twenty-one years service, and for every coroner having attained the age of seventy years, or having become incapable from ill-health or infirmity to discharge the duties of his office, to apply by counsel to the Court of Queen's Bench in Ireland for a certificate or declaration that the applicant has attained the age of seventy years, or is incapacitated, by ill-health or infirmity, from discharging the duties of his office, or that he having attained the age of sixty years has served in the office of coroner for twenty-one years (as the case may be), and upon hearing such evidence as may be given in support of such application, the court or judge before whom same is heard shall give such certificate, should the evidence given be sufficient to justify said court or judge in so doing, and upon the production of any such certificate the coroner therein named shall be thenceforth entitled to receive an annuity or yearly sum, being *two thirds* of the fees or emoluments which he was entitled as coroner to receive, on the annual average calculated upon the three years next preceding such application, said annuity to be paid half-yearly, at May and November, in each year during such coroner's natural life, and every such annuity shall be payable out of and chargeable upon the funds raised by fines and penalties in Ireland, and such annuities shall be paid, as herein provided, by the registrar or person in charge of the collection of all moneys and accounts connected with said fines and penalties, the receipt of each coroner entitled, as herein provided, to receive the same shall be a sufficient voucher for the payment of said annuity: Provided always, that upon the death of any coroner in receipt of such annuity his legal representative shall be entitled to such part of the current half year's annuity as had accrued from day to day up to the date of said coroner's death.

Commitment of persons suspected of causing death.

7. When any person or persons shall be taken on charge of suspicion of being feloniously implicated in the death of the person on whose body an inquest is about to be or is being held, the coroner or deputy coroner holding such inquest is hereby empowered upon a proper information of the fact being taken in writing by such coroner or deputy coroner, to commit to prison the person or

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persons so charged or suspected, who shall be retained in custody until the result of the inquiry and the verdict of a jury on such inquest shall be had; whereupon such coroner or deputy coroner shall recommit or release such person or persons as may be right to do in pursuance of such verdict: And be it further provided, that all persons suspected or accused of being principles or accessories before the fact, if in custody, shall, upon a written order of the coroner presiding at any such inquest, be produced at the inquest or any adjournment of the same, and all such persons shall be allowed to hear the evidence given, and to cross-examine the witnesses.

Depositions.

8. At any time after all the depositions of witnesses at any inquest shall have been taken, every person against whom any coroner's jury may have found a verdict of murder or manslaughter shall be entitled to have, from the coroner or from the person having custody of the same, copies of the depositions on which such verdict shall have been found, on payment of a reasonable sum, not exceeding the rate of *twopence* for every folio of ninety words.

Amalgamation of offices.

9. And whereas in the county of the city of Dublin there are at present two coroners of and for the said district, each one of whom discharges the whole of the duties in alternate months for the whole of said district, and it is expedient to permit and provide for the amalgamation of the two offices: Be it enacted that on the death, retirement, or disability by reason of age, ill-health, or infirmity of either one of the said two coroners, such disability having been certified by the Court of Queen's Bench in Ireland, as in clause six of this Act already provided, the remaining coroner shall thereby and thereupon attain to and hold the office of sole coroner for the county of the city of Dublin: Provided always, that if either one of the two coroners at present holding office in the county of the city of Dublin so retire, or be as aforesaid certified to have become incapacitated from the discharge of his duties, he shall receive annually, as herein-before enacted, a retiring allowance of *two thirds* of such average of annual emoluments as he would be entitled to receive as superannuation under clause six of this Act.

Maintenance of coroner's court and mortuary.

10. And whereas the grand jury of the county of the city of Dublin have recently provided a suitable edifice for the sole purpose of a coroner's court, and a morgue or mortuary for the reception of bodies of deceased persons awaiting inquest; and it is expedient to provide for the maintenance and to regulate the expenses of such coroner's court and morgue or mortuary: Be it therefore enacted,

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that it shall and may be lawful for the said grand jury to present and pay such sum or sums as they may from time to time judge to be necessary for the maintenance, repair, or improvement of the edifice of said court, or of the coroner's court and morgue for the time being for the county of the city of Dublin, as well of providing it with proper and necessary appliances, and for the payment of a clerk to the coroners, and of a care-taker of the said court and morgue: Provided always, that every such presentment or payment may be traversed as grand jury presentments may at present be traversed, before the Court of Queen's Bench, Ireland.

Interpretation.

11. In this Act grand jury shall mean the municipal council of the city of Dublin, in the exercise of grand jury powers already by statute conferred upon it.

This Act not in derogation of coroners' powers.

12. The provisions of this Act are not to be construed in derogation of but in addition to the powers, functions, rights, and privileges at present possessed by statute or at common law by coroners in the county of the city of Dublin.

Extent of Act.

13. This Act shall extend to the county of the city of Dublin only.

Short title.

14. This Act may be cited as the Coroners (Dublin) Act, 1876.

SCHEDULE.

9 & 10 Vict. cap. 37., clause 27, together with the first item in Schedule C. of said Act.

23 & 24 Vict. cap. 74., clause 1.

Coroners (Dublin).

A

BILL

To amend the Law relating to Coroners and Inquests in the County of the City of Dublin.

(*Prepared and brought in by Mr. Sullivan, Sir Arthur Guinness, Mr. Maurice Brooks, and Mr. Patrick Martin.*)

Ordered, by The House of Commons, *to be Printed*, 13 *March* 1876.

[Bill 104.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law relating to Coroners in the County of the City of Dublin. A.D. 1876.

WHEREAS it is expedient to amend the law with respect to coroners in the county of the city of Dublin:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal.

1. From and after the passing of this Act the several parts of the Acts set forth in the schedule to this Act annexed, so far as the same apply to the county of the city of Dublin, but no further, shall be and the same are hereby repealed.

Qualification of coroner.

2. From and after the passing of this Act no person shall be elected or chosen to the office of coroner of the county of the city of Dublin unless at the time of being so elected or chosen he in addition to possessing such statutable qualification as is at present required is further qualified as follows; that is to say,

(*a.*) Is duly qualified to practice medicine or surgery, and registered as so qualified under the Medical Act of 1858, or any Act amending the same; or

(*b.*) Is a barrister-at-law; or

(*c.*) Is on the roll of solicitors or attorneys in one of the superior courts at Dublin.

Remuneration of coroner.

3. From and after the passing of this Act there shall be paid to every coroner for the county of the city of Dublin, in lieu of the fees, mileages, and allowances which if this Act had not been passed he would have been entitled to receive, such an annual salary as shall be agreed upon between him and the town council of the county of the city of Dublin, such salary, in the case of any person holding the office of coroner of the county of the city of

A.D. 1876.

Dublin at the time of the passing of this Act, not being less than the average amount of the fees, mileages, and allowances actually received by such coroner and his predecessors, if any, for the five years immediately preceding the thirty-first day of December one thousand eight hundred and seventy-five; and such salary shall be paid quarterly to such coroner in the manner and out of the same funds as hitherto; and whenever, from death, removal, or any other cause whatever, any such coroner shall not be entitled to a salary for the whole of a quarter, a proportionate part of the salary shall be paid to him, or, in case of his death, to his personal representatives: Provided always, that in case the town council and any such coroner as aforesaid shall be unable to agree as to the amount of the salary to be paid to such coroner, it shall be lawful for the chief secretary to the Lord Lieutenant for the time being, and he is required, upon the application of such coroner, to fix and determine the amount of such salary, having regard to the amount of such average as aforesaid, also the average number of inquests held by any such coroner or coroners in the preceding five years as aforesaid, and also to the special circumstances of each case. Provided also, that after the lapse of every successive period of five years it shall be lawful for such town council and such coroner as aforesaid to revise and thereby increase or diminish any such salary, having regard to the average number of inquests held by any such coroner or coroners in the five years immediately preceding, and subject in case of their disagreement to such appeal to the chief secretary as aforesaid.

Provided always, that nothing herein contained shall in any manner take away, alter, or deprive any such coroner of the right to be repaid, out of the same funds as hitherto accustomed, the expenses and disbursements which may have been paid or made by him on the holding of any inquest as provided by the several Acts now in force.

Amalgamation of offices.

4. And whereas in the county of the city of Dublin there are at present two coroners of and for the said district, each one of whom discharges the whole of the duties in alternate months for the whole of said district, and it is expedient to permit and provide for the amalgamation of the two offices: Be it enacted, that on the death or retirement of either one of the said two coroners the remaining coroner shall thereby and thereupon attain to and hold the office and discharge the duties of sole coroner for the county of the city of Dublin, and thereupon there shall be paid to such coroner, in addition to the salary then payable to him, the amount of the salary which was payable to the coroner so dying or retiring at the

time of his death or retirement, and thereafter there shall be but one coroner from time to time for the county of the city of Dublin: Provided that the amount payable to every such sole coroner by way of salary shall be subject to revision at the time and in the manner prescribed by the fourth section of this Act.

Appointment of deputy.

5. In case of the illness or unavoidable absence of any coroner for the time being of the county of the city of Dublin, he is empowered and hereby required, by writing under his hand and seal, to appoint a fit and proper person, qualified as by this Act required for election as coroner, to act for him as deputy coroner during the illness or unavoidable absence of such coroner, but no longer or otherwise: Provided always, that the Lord Mayor of Dublin, or two justices of the county of the city of Dublin, shall, on each occasion, certify under their hands and seals the necessity of the appointment of such deputy coroner, and such certificate shall state the cause of the absence of such coroner, and shall be openly read to every inquest jury summoned by such deputy coroner; and the particulars of every inquest holden by such deputy coroner shall be included in the return to be made by such deputy coroner in like manner as if the same were made by such coroner.

Maintenance of coroner's court and mortuary.

6. And whereas the town council of the city of Dublin have recently provided a suitable edifice for the sole purpose of a coroner's court, and a morgue or mortuary for the reception of bodies of deceased persons awaiting inquest; and it is expedient to provide for the maintenance and to regulate the expenses of such coroner's court and morgue or mortuary: Be it therefore enacted, that it shall and may be lawful for the said town council to present and pay such sum or sums as they may from time to time judge to be necessary for the maintenance, repair, or improvement of the edifice of said court, or of the coroner's court and morgue for the time being for the county of the city of Dublin, as well of providing proper and necessary appliances for the same, and for the payment of a clerk to the coroner or coroners, as the case may be, and of a care-taker of the said court and morgue: Provided always, that every such presentment or payment may be traversed as grand jury presentments may at present be traversed before the Court of Queen's Bench, Ireland.

Extent of Act.

7. This Act shall extend to the county of the city of Dublin only.

Short title.

8. This Act may be cited as the Coroners (Dublin) Act, 1876.

A.D. 1876.

SCHEDULE.

3 & 4 Vict. c. 108. s. 156.

9 & 10 Vict. c. 37, so much of section 27 as limits to sixty-five pounds sterling the amount which may be presented at any presenting term for the payment of any coroner.

23 & 24 Vict. c. 74. s. 1.

A

BILL

[AS AMENDED IN COMMITTEE]

To amend the Law relating to Coroners in the County of the City of Dublin.

(Prepared and brought in by Mr. Sullivan, Sir Arthur Guinness, Mr. Maurice Brooks, and Mr. Patrick Martin.)

Ordered, by The House of Commons, *to be Printed,* 17 *May* 1876.

[Bill 152.] *Under* 1 *oz.*

LORDS AMENDMENTS

TO

THE CORONERS (DUBLIN) BILL.

Note.—*The page and line refer to the Bill* (102.) *as first printed by the Lords.*

Page 2.

Lines 33 and 34, leave out ("are at present") and insert ("have "hitherto been")

Line 35, leave out ("discharges") and insert ("has discharged")

Line 36, leave out from ("district") to ("and") in page 3, line 1, and insert ("but one of said coroners, Doctor William "White, has lately died, and it is expedient that no successor "should be appointed in his place, so that the two offices "hitherto existing may now be amalgamated, and that hence-"forth there shall be but one coroner of and for the county "of the city of Dublin: Be it enacted, that Doctor Nicholas "Conlethus Whyte, now the surviving coroner of and for the "said county of the city of Dublin, shall on and from the "passing of this Act attain to and hold the office and discharge "the duties of sole coroner of and for the county of the city "of Dublin, and thereupon and thereafter there shall be paid "to the said Doctor Nicholas Conlethus Whyte and his suc-"cessors in office, in addition to the salary which is now or "which under this Act would be payable from time to time "to him, the amount of salary which was, or which under this "Act would have become payable to the said William White, "deceased")

Page 3.

Line 5, at end of clause 4. add ("Provided always, that nothing "herein contained shall in any way affect the right of the "personal representatives of the said William White, deceased, "to receive all arrears of salary and emoluments, if any, to "which the said William White, deceased, was entitled at the "time of his death")

[Bill 214.]

LORDS AMENDMENTS

TO

THE CORONERS (DUBLIN) BILL.

Ordered, by The House of Commons, *to be Printed*,
28 *June* 1876.

[Bill 214.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law relating to certain Appointments to the Council of India.

A.D. 1876.

WHEREAS by an Act of the Thirty-second and Thirty-third Years of the Reign of Her present Majesty, Chapter Ninety-seven (in this Act referred to as the Act of 1869), it was, among other things, provided that the Members of the Council of India were to hold their offices for a Period of Ten Years, and for such further Period as is in Section Three of the said Act mentioned:

And whereas, regard being had to the composition of the said Council contemplated in Section Ten of the Act of the Twenty-first and Twenty-second Years of Her present Majesty, Chapter One Hundred and Six (in this Act referred to as the Act of 1858), it is expedient to amend the said first-mentioned Act in certain particulars:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment of persons with professional or other qualifications.

1. Notwithstanding anything in the Act of 1869, the Secretary of State for India may, if he thinks fit, subject to the Condition as to the Number of Appointments herein-after laid down, appoint any Person having professional or other peculiar qualifications to be a Member of the said Council under this Act; and every Person so appointed shall hold his office in the same manner, and shall be entitled to the same Salary, Pension, and other Rights and Privileges, and be subject to the same Disabilities, as if he had been elected or appointed before the passing of the Act of 1869, save only that, if he shall have retained his seat on the Council for Fifteen Years, he shall thenceforth hold his office during the Pleasure of Her Majesty.

Where any Person appointed under this Act is at his appointment a Member of the Council, his period of service for the purposes of

A.D. 1876.

this Act shall be reckoned from the time of his first appointment or election to the Council.

The special reasons for every appointment under this Act shall be stated in a Minute of the Secretary of State for India, and shall be laid before both Houses of Parliament. Not more than Three Persons appointed under this Act shall be Members of the Council at the same time; nor shall the provisions of Sections Seven and Ten of the Act of 1858, with reference to the Number of the Council and the Qualification of the major part of the Members, be affected by this Act.

Council of India (Professional Appointments).

A

B I L L

To amend the Law relating to certain Appointments to the Council of India.

(*Prepared and brought in by Mr. Raikes, Lord George Hamilton, and Mr. William Henry Smith*).

Ordered, by The House of Commons, *to be Printed,* 14 *February* 1876.

[Bill 69.]

Under 1 *oz.*

A

B I L L

TO

Alter the Justiciary District of the County of Peebles. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

County of Peebles disjoined from Jedburgh circuit and annexed to district of High Court of Justiciary.

1. The county of Peebles shall no longer form part of the district attached to or within the jurisdiction of the Circuit Court of Justiciary holden at Jedburgh, but shall form part of and is hereby annexed to the district exclusively attached to the High Court of Justiciary at Edinburgh, and presently consisting of the counties of Edinburgh, Linlithgow, and Haddington.

Power to Court of Justiciary to make orders and regulations.

2. It shall be lawful for the Lords Commissioners of Justiciary, and they are hereby required, to make such orders and regulations and to pass such Acts of Adjournal as may be necessary for carrying into effect the provisions of this Act, and in particular for determining the proportions in which jurors shall be returned for the several counties hereafter included within the district attached to the High Court of Justiciary at Edinburgh and the district attached to the Circuit Court holden at Jedburgh respectively.

County of Peebles Justiciary District (Scotland).

A

BILL

To alter the Justiciary District of the County of Peebles.

(*Prepared and brought in by The Lord Advocate and Mr. Secretary Cross.*)

Ordered, by The House of Commons, *to be Printed*, 28 *June* 1876.

[Bill 212.]

Under 1 *oz.*

A

B I L L

TO

Amend the Act for making regulations as to the Office of Clerk of the Peace for the County Palatine of Lancaster. A.D. 1876.

WHEREAS an Act was passed in the session of Parliament held in the thirty-fourth and thirty-fifth years of Her Majesty, for making regulations in relation to the office of clerk of the peace of the county palatine of Lancaster:

And whereas it is expedient that the said Act shall be amended; be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment of deputy clerks of the peace.

1. The power to appoint deputy clerks of the peace by the said Act given to the Chancellor of the Duchy of Lancaster for the time being shall, from and after the commencement of the said Act, be vested in and exercised by the clerk of the peace, instead of by the said Chancellor, but subject to the approval of the said Chancellor; and such clerk of the peace shall, out of the salary to be paid to him under the said Act, pay the salaries and expenses of the deputies so to be appointed by him.

Notwithstanding anything in the said Act contained, any clerk of the peace hereafter appointed in pursuance of the said Act, or any deputy clerk hereafter appointed in pursuance of this Act, shall not be entitled to any compensation in the event of his office being altered or abolished by any Act of Parliament hereafter to be passed.

County Palatine of Lancaster (Clerk of the Peace).

A

B I L L

To amend the Act for making regulations as to the Office of Clerk of the Peace for the County Palatine of Lancaster.

(*Prepared and brought in by Mr. Hardcastle, Mr. Holt, and Mr. Clifton.*)

Ordered, by The House of Commons, *to be Printed*, 10 *February* 1876.

[Bill 53.]

Under 1 *oz.*

A

B I L L

TO

Make better provision for the Apportionment of County Rates between Landlord and Tenant in Ireland. A.D. 1876.

WHEREAS by the Landlord and Tenant, Ireland, Act, 1870, it was among other things enacted that any person who, under any tenancy whatever created after the passing of this Act, should become the occupier of any premises liable to grand jury cess and who should be liable to pay a rent for the same should be entitled to make from the rent which he is liable to pay certain deductions specified in the said Act, and whereas it is expedient to extend the same provisions to all tenancies whensoever created, and to make better provision for so apportioning the grand jury cess and also for equitably adjusting the rights of persons who may be affected by such apportionment:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Short title.

1. This Act may be cited for all purposes as the County Rates, Ireland, Bill, 1876.

Interpretation.

2. The words "county rate" in this Act shall have the same meaning as the words grand jury cess in the Landlord and Tenant Act, Ireland, 1870.

Provisions of Landlord and Tenant Act extended to all tenancies.

3. All the provisions contained in the sixty-fifth and sixty-seventh sections of the said Act shall, as to any county rate that shall, after the passing of this Act, be assessed upon any premises in any county at large, apply to all tenancies whatsoever, whensoever same shall have been or may be created.

Deductions on account of compensation for

4. Provided always, that notwithstanding anything in the sixty-seventh section of the said Act contained, all the provisions of the said Act shall apply to any county rate assessed on any premises

A.D. 1876.

malicious injury.

after the passing of this Act under the authority of any presentment made for the compensation of any person occasioned by any loss or damage occasioned by any malicious injury.

Agreements to forego deduction of rate. 1 & 2 Vict. c. 56. s. 77.

5. Provided always, and be it enacted, that any covenant or agreement whereby any person liable to pay rent and entitled under the same provisions or the provisions of this Act to deduct therefrom any rate or portion of rate shall have covenanted or agreed or shall hereafter covenant or agree to forego such deductions shall, so far as any such rate assessed after the passing of this Act, be of no effect, and if any person shall wilfully refuse to allow any deductions on account of county rate authorised to be made by this Act on the landlord and tenant, and out of any payment of rent receivable by him, every such person shall for every such offence forfeit the sum of *twenty* pounds, to be recoverable by civil bill by the person liable to pay such rent.

Rent to be increased in certain cases.

6. Provided always, and be it further enacted, that whenever any person is now liable to pay rent in respect of any premises liable to county rate without making any deduction on account of such rate, or without making any deduction on account of the rate levied under the authority of any presentment for compensation for malicious injury, the rent payable by him on any gale day after the passing of this Act shall be increased in manner following; that is to say.

Average of seven years county rate to be struck by secretary of grand jury.

7. In every county at large in Ireland the secretary of the grand jury shall, before the first assizes for the county held after the coming of this Act into operation, make out a certificate showing for each barony in the county the poundage rate levied on each pound of the general valuation of each barony in every county rate assessed therein during the preceding seven years, excluding therefrom all the sums mentioned in the sixty-seventh section of the Landlord and Tenant, Ireland, Act, 1870, except the sums levied on account of presentments of compensation for malicious injury, and shall in such certificate strike and declare the average of the entire of such yearly poundage rate assessed on each pound of the general valuation of each barony during the said seven years, and he shall also state and declare separately the average of the poundage rate assessed on account of compensation for malicious injury. He shall publish his certificate in some paper circulating in the county one week at least before the first day of the assizes, and shall on the first day of the assizes, in open court, present such certificate to one of the judges presiding at same.

A.D. 1876.

Judge of assize to approve or correct certificate.

8. The judges of assize or one of them shall examine into the correctness of such certificate in such manner as he shall see fit, and shall hear any person interested objecting to same. He may, if he shall so think fit, order any alteration to be made in such certificate, or if satisfied of its correctness, he shall approve of same. He shall sign his approval upon such certificate with or without alteration, and shall make an order in the crown book confirming same, and such certificate shall be kept among the records of the county, and a copy of such certificate by the Clerk of the Crown shall be received in evidence as proof of the original in all courts and for all purposes whatever.

Average poundage rate to be added to rent.

9. Every person paying rent in respect of any premises situated in any barony which are liable to county rate and who shall be entitled under this Act to make any deduction from his rent which but for its passing he would not be entitled to make, shall, instead of the rent payable by him at the passing of this Act, pay an increased rent as follows; if he was not entitled to make any deduction on account of county rate, to each pound of rent payable by him there shall be added one half of the poundage rate stated in the said certificate as finally approved of by the judge to be the average yearly poundage rate for the barony in which the premises are situated, and a proportionable increase for any fraction of a pound; if he was entitled to make a deduction on account of county rate as specified in the Landlord and Tenant, Ireland, Act, 1870, but not entitled to deduction on account of rate levied on account of compensation for malicious injury, then there shall be added to his rent one half of the poundage rate as stated in the certificate to be the average yearly poundage rate on account of such compensation, and a proportionate increase for every fraction of a pound, and such increased rate shall to all intents and purposes be the rent payable in lieu and instead of the original rent, and as if the same had been the rent payable under the letting or contract of tenancy under which such lands were held.

Provided always, that in no case shall the entire sum so added to the rent exceed the aggregate of the average poundage rate on the premises according to the general valuation of same.

Provision for county of Dublin.

10. In the county of Dublin the certificate shall be presented to the Court of Queen's Bench on the first day of the presenting term immediately following the coming into operation of this Act, and the said court or any judge thereof shall exercise all the powers and discharge all the duties herein-before conferred or imposed upon the judges of assize.

County Rates (Ireland).

A

BILL

To make better Provision for the Apportionment of County Rates between Landlord and Tenant in Ireland.

(*Prepared and brought in by Mr. Butt, Mr. Downing, and Mr. Richard Smyth.*)

Ordered, by The House of Commons, *to be Printed*, 27 *April* 1876.

[Bill 138.]

Under 1 *oz.*

A

B I L L

TO

Preserve the Crab and Lobster Fisheries on the Coast of Norfolk. A.D. 1876.

WHEREAS the crab and lobster fisheries on the sea coast of Norfolk have been greatly injured, and it is expedient to make the following enactments for the purpose of preserving and increasing the same:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Crab and Lobster Fisheries (Norfolk) Act, 1876" and shall come into operation on the *first day of September, one thousand eight hundred and seventy-six.*

Extension and application.

2. This Act shall extend and apply only to the sea coast of Norfolk from Salthouse to Mundesley, both inclusive, and for a distance of three miles from the shore.

Meaning of terms.

3. In this Act the words and expressions herein-after mentioned shall have respectively the meanings hereby assigned to them; that is to say,—

An "unsizeable crab" means a crab that measures less than four and a quarter inches across the back:

An "unsizeable lobster" means a lobster that measures less than seven inches in length from the end of the tail to the tip of the beak, not including the horns:

To "take" means to take and not forthwith return alive into the water with as little delay as possible.

Close time and taking unsizeable crabs and lobsters.

3. No person shall do any of the following things; that is to say,—

1. Take lobsters from the *twenty-fifth day of June* to the *twenty-fifth day of July* inclusive:
2. Take any unsizeable crab or any unsizeable lobster:
3. Take any crabs or lobsters at any time carrying spawn or ova.

[Bill 109.]

A.D. 1876.

Penalty.

4. Any person acting in contravention of the third section of this Act shall for each offence incur a penalty not exceeding *five pounds*.

Recovery of penalties.

5. All penalties imposed by this Act and all costs or expenses may be recovered in a summary manner within six months of the commission of the offence before two justices, in manner directed by an Act passed in the eleventh and twelfth years of the reign of Her present Majesty Queen Victoria, chapter forty-three, intituled An Act to facilitate the performance of the duties of the justices of the peace out of sessions within England and Wales with respect to summary convictions and orders, or of any Act amending the same. And all moneys received in respect of such penalties shall be paid as follows; that is to say, such portion not exceeding *one half* as the justices may think fit to the person on whose complaint the penalty is recovered, and the remainder in manner directed by the said Act of eleventh and twelfth Victoria, chapter forty-three.

Offences committed beyond ordinary jurisdiction of justices.

6. Any offence committed against this Act on the sea coast or at sea beyond the ordinary jurisdiction of any justices of the peace shall be deemed to have been committed within the county of Norfolk, and may be tried and punished accordingly.

Crab and Lobster Fisheries (Norfolk).

A

BILL

To preserve the Crab and Lobster Fisheries on the Coast of Norfolk.

(*Prepared and brought in by Mr. Frederick Walpole, Sir Robert Buxton, and Mr. Colman.*)

Ordered, by The House of Commons, *to be Printed,* 17 *March* 1876.

[Bill 109.]

Under 1 *oz.*

A

B I L L

To further amend the Law of Evidence in Criminal Trials, and to enable Prisoners or Defendants and their Wives or Husbands to give Evidence at such Trials. A.D. 1876.

WHEREAS it is expedient for the better administration of justice in criminal proceedings, both as regards the conviction of offenders and the acquittal of innocent persons, to make prisoners or defendants and their wives or husbands competent to give evidence in the manner by this Act provided:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. **1.** This Act may be cited as "The Criminal Evidence Amendment Act, 1876."

Interpretation. **2.** In this Act the expression "prisoner or defendant" shall mean and include any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction.

The expression "upon oath" shall include "upon affirmation" in those cases wherein testimony upon affirmation is by law receivable.

The expression "the Act of 1865" shall mean an Act passed in the session of Parliament held in the 28th and 29th years of the reign of Her present Majesty, intituled "An Act for amending the law of evidence and practice on criminal trials."

Prisoner may give evidence on his own behalf. **3.** Any prisoner or defendant shall be allowed, if he shall so think fit, to give evidence on his own behalf.

Prisoner may call wife or husband. **4.** Any prisoner or defendant shall be allowed, if he or she shall so think fit, to call as a witness his wife or her husband.

Prisoner or defendant may be **5.** Where two or more prisoners or defendants are joined in the same indictment, or are together charged with the commission of

witness for co-prisoner or co-defendant.

the same offence, any one or more of such prisoners or defendants shall be allowed, if he or they shall so think fit, to call any other prisoner or defendant so joined or charged as aforesaid, or the wife or husband of such other prisoner or defendant as a witness on his or their behalf, provided that no such prisoner or defendant shall be called against his will.

Evidence to be on oath and subject to cross-examination.

6. Any prisoner or defendant, or the wife or husband of any prisoner or defendant, giving evidence under the provisions of this Act shall give evidence upon oath, and shall be examined and subject to cross-examination in like manner as any other witness that may be called on behalf of any prisoner or defendant: provided that no prisoner or defendant shall be excused from answering any question on the ground that the answer to such question would tend to criminate him.

As to procedure where prisoner, &c. gives evidence.

7. Where any prisoner or defendant, or the wife or husband of any prisoner or defendant, gives evidence under the provisions of this Act, such persons shall be considered to be witnesses called by the prisoner or defendant, and their evidence shall, except where otherwise provided by this Act, be subject to the provisions of the Act of 1865, and of any other Act now in force relating to the law of evidence and practice in criminal trial, so far as the same may be applicable thereto.

Prisoner or defendant may address the jury.

8. Nothing in this Act contained shall alter, vary, or affect the right of any prisoner or defendant to address the jury whether or not such prisoner or defendant shall have given evidence under the provisions of this Act.

As to statements before justices.

9. Where in England under the provisions of the eighteenth section of an Act passed in the session of Parliament held in the eleventh and twelfth years of the reign of Her present Majesty, intituled "An Act to facilitate the performance of the duties of "justices of the peace out of sessions within England and Wales "with respect to persons charged with indictable offences," or in Ireland under the provisions of section fourteen of the Petty Sessions (Ireland) Act, 1851, the prisoner or defendant wishes to say anything in answer to the charge, he may make his statement upon oath or not as he shall think fit, and all the provisions of the said Acts which relate to such statement when made without an oath shall, save as is herein-after provided, respectively apply to such statement when made upon oath, and to any answers made in cross-examination upon such statement.

Provided that where a prisoner or defendant shall make any

such statement as aforesaid upon oath, he shall be subject to cross-examination, and the provisions of sections six and seven of this Act shall apply to such statement.

Provided also that no such statement or any answers made in cross-examination upon such statement as aforesaid, whether made upon oath or not, shall be given in evidence against such prisoner or defendant upon his trial in cases where such prisoner or defendant intends to offer himself as a witness at such trial, except in manner provided by sections four and five of the Act of 1865 as to previous statements.

Prisoner or defendant liable to prosecution for perjury.

10. Any prisoner or defendant having given evidence under the provisions of this Act may be prosecuted for wilful and corrupt perjury in such evidence, notwithstanding his acquittal on the principal charge and may be dealt with by the court before whom the trial of such charge is had in like manner as if he were a witness for or against any other person.

Not to apply to Scotland.

11. This Act shall not apply to Scotland.

Criminal Law Evidence Amendment.

A

BILL

To further amend the Law of Evidence in Criminal Trials, and to enable Prisoners or Defendants and their Wives or Husbands to give Evidence at such Trials.

(*Prepared and brought in by Mr. Ashley and Mr. George Clive.*)

Ordered, by The House of Commons, *to be Printed* 11 *February* 1876.

[Bill 61.] ←

Under 1 *oz.*

A

B I L L

INTITULED

An Act for amending the Law relating to Crossed Cheques. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as The Crossed Cheques Act, 1876.

Repeal of Acts in schedule.

2. The Acts described in the schedule to this Act are hereby repealed, but this repeal shall not affect any right, interest, or liability acquired or accrued before the passing of this Act.

Interpretation.

3. In this Act—

"Cheque" means a draft or order on a banker payable to bearer or to order on demand, and includes a warrant for payment of dividend on stock sent by post by the Governor and Company of the Bank of England or of Ireland, under the authority of any Act of Parliament for the time being in force:

"Banker" includes persons or a corporation or company acting as bankers.

General and special crossings.

4. Where a cheque bears across its face an addition of the words "and company," or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Where a cheque bears across its face an addition of the name of a banker, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

[Bill 112.]

A.D. 1876.

Crossing after issue.

5. Where a cheque is uncrossed, a lawful holder may cross it generally or specially.

Where a cheque is crossed generally, a lawful holder may cross it specially.

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

Crossing material part of cheque.

6. A crossing authorized by this Act shall be deemed a material part of the cheque, and it shall not be lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing.

Payment to banker only.

7. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed.

Relief of banker from responsibility in some cases.

8. Where a cheque is presented for payment, which does not at the time of presentation plainly appear to be crossed, or to have had a crossing which has been obliterated, or which has been added to or altered otherwise than as authorized by this Act, a banker paying the cheque, in good faith and without negligence, shall not be responsible or incur any liability, nor shall the payment be questioned, by reason of the cheque having been crossed, or of the crossing having been obliterated, or having been added to or altered otherwise than as authorized by this Act, and of payment being made otherwise than to a banker or the banker to whom the cheque is or was crossed (as the case may be).

Title of holder of cheque crossed specially.

9. A person taking a cheque crossed specially shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

But a banker to whom a cheque is crossed specially, and who has in good faith and without negligence received payment of the cheque for a customer, shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

SCHEDULE.

ACTS REPEALED.

19 & 20 Vict. c. 25.	-	An Act to amend the law relating to drafts on bankers.
21 & 22 Vict. c. 79.	-	An Act to amend the law relating to cheques or drafts on bankers.

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BILL

INTITULED

An Act for amending the Law relating to Crossed Cheques.

(*Brought from the Lords* 20 *March* 1876.)

Ordered, by The House of Commons, *to be Printed*, 21 *March* 1876.

[Bill 112.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for amending the Law relating to Crossed Cheques. A.D. 1876.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as The Crossed Cheques Act, 1876.

Repeal of Acts in schedule.

2. The Acts described in the schedule to this Act are hereby repealed, but this repeal shall not affect any right, interest, or liability acquired or accrued before the passing of this Act.

Interpretation.

3. In this Act—

"Cheque" means a draft or order on a banker payable to bearer or to order on demand, and includes a warrant for payment of dividend on stock sent by post by the Governor and Company of the Bank of England or of Ireland, under the authority of any Act of Parliament for the time being in force:

"Banker" includes persons or a corporation or company acting as bankers.

General and special crossings.

4. Where a cheque bears across its face an addition of the words "and company," or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Where a cheque bears across its face an addition of the name of a banker, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

A.D. 1876.

Crossing after issue.

5. Where a cheque is uncrossed, a lawful holder may cross it generally or specially.

Where a cheque is crossed generally, a lawful holder may cross it specially.

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

Crossing material part of cheque.

6. A crossing authorized by this Act shall be deemed a material part of the cheque, and it shall not be lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing.

Payment to banker only.

7. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or to his agent for collection being a banker.

Cheque crossed specially more than once not to be paid.

8. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Protection of banker and drawer where cheque crossed specially.

9. Where the banker on whom a cheque crossed specially is drawn has in good faith and without negligence paid it to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque and (in case such cheque has come to the hands of the payee) the drawer thereof shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively have been entitled to and have been placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Banker paying cheque contrary to provisions of Act to be liable to lawful owner.

10. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same shall be crossed, or his agent for collection, being a banker, shall be liable to the lawful owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Relief of banker from responsibility in some cases.

11. Where a cheque is presented for payment, which does not at the time of presentation appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, a banker paying the cheque, in good faith and without negligence, shall not be responsible or incur any liability, nor shall the payment be questioned, by reason of the cheque having been crossed, or of the

crossing having been obliterated, or having been added to or altered otherwise than as authorized by this Act, and of payment being made otherwise than to a banker or the banker to whom the cheque is or was crossed, or to his agent for collection being a banker (as the case may be).

Title of holder of cheque crossed specially.

12. A person taking a crossed cheque shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

But a banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

SCHEDULE.

Acts repealed.	
19 & 20 Vict. c. 25.	An Act to amend the law relating to drafts on bankers.
21 & 22 Vict. c. 79.	An Act to amend the law relating to cheques or drafts on bankers.

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B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for amending the Law relating to Crossed Cheques.

(*Brought from the Lords* 20 *March* 1876.)

Ordered, by The House of Commons, *to be Printed*, 24 *July* 1876.

[Bill 267.]

Under 1 *oz.*

Cruelty Prevention Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Interpretation of terms.
3. Prohibition of vivisection. Wanton cruelty prohibited.
4. Infirmaries and laboratories to be registered.
5. Places registered to be inspected to prevent cruelty.
6. Expenses.
7. Entry on warrant of justice.
8. Penalty.
9. Prosecution of offences and recovery of penalties in England; —in Scotland;—in Ireland.
10. Appeal to quarter sessions in England;—to sheriff in Scotland; —in Ireland.

A

B I L L

TO

Make more effectual provision for the prevention of Cruelty to Animals. A.D. 1876.

WHEREAS it is expedient to make more effectual provision for the prevention of cruelty to animals:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Cruelty Prevention Act, 1876. Short title.

2. In this Act— Interpretation of terms.

The term "Secretary of State" means, in England and Scotland, one of Her Majesty's Principal Secretaries of State, and in Ireland the Chief Secretary of the Lord Lieutenant:

The term "Summary Jurisdiction Act" means, in England, the Act of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to "facilitate the performance of the duties of justices of the "peace out of sessions within England and Wales with respect "to summary convictions and orders," and any Act amending the same:

The term "court of summary jurisdiction" means and includes,—

In England, any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate or officer, by whatever name called, exercising jurisdiction in pursuance of the Summary Jurisdiction Act;

In Scotland, any sheriff, justices or justice, magistrate or other officer exercising jurisdiction in pursuance of the Summary Procedure Act, 1864; and,

In Ireland, any justices, justice, or other officer exercising jurisdiction in pursuance of the Petty Sessions (Ireland) Act, 1851, and any Act amending the same, or in pursuance of

A.D. 1876.

the Acts regulating the powers of justices of the peace in Dublin, or of the police of Dublin metropolis:

The term "physiological laboratory" means and includes any place set apart or used for anatomical or physiological investigations:

The term "infirmary" means any place in which animals are received for the performance of any surgical operation, or for the treatment of disease:

The term "occupier" means the person or persons rated to the relief of the poor in respect of any premises:

The term "metropolis" means the city of London and all parishes and places mentioned in Schedules A. B. and C. to the Metropolis Local Management Act, 1855:

The term "local authority" means, in the metropolis, the corporation of the city of London, and the several vestries and district boards having authority under the Metropolis Local Management Act, 1855, within their respective jurisdictions, and elsewhere,—

In England, the urban and rural authorities for the purposes of the Public Health Act, 1875;

In Scotland, the local authorities for the purposes of the Public Health (Scotland) Act, 1867; and,

In Ireland, the urban and rural sanitary authorities, for the purposes of the Public Health Act (Ireland), 1874.

Prohibition of vivisection.

3. *From and after the passing of this Act* it shall not be lawful to perform any experiment causing, or of a nature to cause, pain or disease in any animal, or to cut or wound any living animal, except as herein-after provided; that is to say, for the purpose of—

(1.) Killing any animal; or

(2.) Alleviating or curing any disease from which such animal is suffering; or

(3.) Performing any operation required to render such animal better suited for the service of man; or

(4.) Ascertaining, in pursuance of a judicial inquiry, and by direction of the Secretary of State, and under such regulations as he may prescribe, the nature or operation of any supposed poison for which there is no known chemical test:

and any person except as aforesaid taking part in any such act, or permitting such act to be performed upon any premises over which he has control, shall be deemed guilty of an offence against this Act.

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Provided always, that, notwithstanding anything herein-before contained, it shall be an offence against this Act for a person to treat any animal with wanton cruelty or to subject it to unnecessary suffering. Wanton cruelty prohibited.

4. If any person shall desire to establish or to maintain an infirmary for animals, or a physiological laboratory, upon any premises, notice shall be given by the occupier of such premises to the Secretary of State of such intention, and such notice shall sufficiently describe the place with respect to which such notice is given, and shall be renewed before the first day of February in every year; and the Secretary of State shall cause the name of such occupier and the name and description of such place to be entered in a register to be kept for the purpose of this Act, and shall cause a copy of such register to be laid before both Houses of Parliament, and to be sent to every local authority within whose district any such registered place is situate, on or before *the thirty-first day of March in every year*. Infirmaries and laboratories to be registered.

5. Every local authority having jurisdiction in a district within which any place registered in pursuance of this Act is situate shall, within *six weeks* from the thirty-first day of March which shall be next after the passing of this Act, and from time to time thereafter as need shall require, appoint one or more fit and proper persons, being already officers under the control of such local authority, or otherwise, if they shall think fit, to be inspectors of such places within such district; and such inspector or inspectors shall have authority to visit all places registered under this Act, and all slaughter-houses and all knackers' yards situate within their respective districts, and to prosecute in the name of the local authority all persons offending against the provisions of this Act; and the said local authority shall have power to remove any such inspector at their pleasure, and to appoint another in his room. Places registered to be inspected to prevent cruelty.

6. All expenses incurred or payable by any local authority, whether for salaries or in the prosecution of offenders under this Act, shall be defrayed in the same manner as such expenses would be defrayed if they were general expenses incurred for the purposes of the Act under which such local authority has jurisdiction. Expenses.

7. On information in writing that there is reasonable ground to believe that an offence against this Act has been or is about to be committed on any premises, a justice of the peace shall issue his warrant authorising any police officer to enter and search such premises, and to demand the names and addresses of any persons found thereon, and to seize and retain in his custody any thing Entry on warrant of justice.

A.D. 1876.

found thereon which may be required to be produced as evidence against any person charged or to be charged with an offence under this Act.

Whosoever shall refuse admission on demand to any person authorised in pursuance of this Act to visit any place, or shall obstruct such person in the execution of his duty, or shall refuse on demand to give his name or address, or shall give a false name or address, shall be deemed guilty of an offence against this Act.

Penalty.

8. Any person offending against any of the provisions of this Act shall, on conviction before a court of summary jurisdiction, forfeit and pay a penalty not exceeding *twenty-five pounds*, or, at the discretion of the court, shall be imprisoned for a term not exceeding *six months;* and for a second or any subsequent offence shall forfeit and pay a penalty not exceeding *fifty pounds*, or shall be imprisoned for a term not exceeding *twelve months*.

Prosecution of offences and recovery of penalties in England;

9. All offences and penalties under this Act may be prosecuted and recovered in manner directed,—

In England,—

by the Summary Jurisdiction Act;

in Scotland;

In Scotland,—

by the "Summary Procedure Act, 1864;" and,

in Ireland.

In Ireland,—

within the police district of Dublin metropolis, by the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland by the Petty Sessions (Ireland), Act, 1851, and any Act amending the same.

Appeal to quarter sessions in England;

10. Any person convicted of an offence against the provisions of this Act may appeal,—

In England,—

To the next court of general or quarter sessions of the peace for the county, city, town, or place wherein such conviction shall have been made, which shall be held not less than twenty-one days after the decision of the court from which the appeal is made; or,

to sheriff in Scotland;

In Scotland,—

To the sheriff of the county:

Provided that the person so appealing shall within *three days* next after such conviction enter into a recognizance with two sufficient sureties conditioned to duly prosecute and try such appeal, and to be forthcoming to abide the judgment and determination of such court or of such sheriff, and to pay such costs as shall be by

such court or such sheriff awarded; and the court at such general or quarter sessions and such sheriff respectively are hereby required to hear and finally determine the matter of such appeal, and to award such costs to the party appealing or appealed against as he or they shall think fit.

In Ireland,— in Ireland.

If the conviction shall have been made by a justice or justices acting in any petty sessions district,—

To the court of quarter sessions for that division of the county within which such district is situate; or,

If the conviction shall have been made by the divisional justices in the police district of Dublin metropolis,—

To the recorder of the city of Dublin; or,

If the conviction shall have been made by any justice or justices in any corporate or borough town,—

To the recorder of such town.

And it shall be lawful for such court of quarter sessions and for such recorder respectively to decide such appeal if made in the form and manner and with the notices required by the said Petty Sessions Acts respectively herein-before mentioned as to appeals against orders made by justices at petty sessions, and all the provisions of the said Petty Sessions Acts respectively as to the time within which appeals should be made, and as to the making thereof, and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal made under this Act.

Cruelty Prevention.

A

BILL

To make more effectual provision for the prevention of Cruelty to Animals.

(*Prepared and brought in by Mr. Holt, Mr. Hardcastle, Mr. Wait, and Mr. Wilson.*)

Ordered, by The House of Commons, *to be Printed,* 24 *May* 1876.

[Bill 168.]

Under 1 *oz.*

Cruelty to Animals Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Prohibition of painful experiments on animals.
3. General restrictions as to performance of painful experiments on animals.
4. Use of urari as an anæsthetic prohibited.
5. Absolute prohibition of painful experiments on dogs and cats.
6. Absolute prohibition of public exhibition of painful experiments.

Administration of Law.

7. Registry of place for performance of experiments.
8. License by Secretary of State.
9. Reports to Secretary of State.
10. Inspection by Secretary of State.
11. Certificate of scientific bodies for exceptions to general regulations.
12. Power of judge to grant license for experiment when necessary in criminal case.

Legal Proceedings.

13. Entry on warrant by justice.
14. Prosecution of offences and recovery of penalties in England.
15. Power of offender in England to elect to be tried on indictment, and not by summary jurisdiction.
16. Form of appeal to quarter sessions.
17. Prosecution of offences and recovery of penalties in Scotland.
18. Prosecution of offences and recovery of penalties in Ireland.
19. Power of offender in Ireland to elect to be tried on indictment, and not by summary jurisdiction.

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B I L L

INTITULED

An Act to amend the Law relating to Cruelty to Animals. A.D. 1876.

WHEREAS it is expedient to amend the law relating to cruelty to animals by extending it to the cases of animals which for medical, physiological, or other scientific purposes are subjected when alive to experiments calculated to inflict pain:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The Cruelty to Animals Act, 1876." Short title.

2. A person shall not perform on a living animal any experiment calculated to give pain, except subject to the restrictions imposed by this Act. Any person performing or taking part in performing any experiment calculated to give pain, in contravention of this Act, shall be guilty of an offence against this Act, and shall, if it be the first offence, be liable to a penalty not exceeding fifty pounds, and if it be the second or any subsequent offence, be liable, at the discretion of the court by which he is tried, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding three months. Prohibition of painful experiments on animals.

3. The following restrictions are imposed by this Act with respect to the performance on any living animal of an experiment calculated to give pain; that is to say, General restrictions as to performance of painful experiments on animals.

(1.) The experiment must be performed with a view only to the advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or prolonging human life or alleviating human suffering; and

(2.) The experiment must be performed in a registered place; and

(3.) The experiment must be performed by a person holding such license from one of Her Majesty's Principal Secre-

A.D. 1876.

taries of State, in this Act referred to as the Secretary of State, as is in this Act mentioned; and

(4.) The animal must during the whole of the experiment be under the influence of some anæsthetic of sufficient power to prevent the animal feeling pain; and

(5.) The animal must, if the pain is likely to continue after the effect of the anæsthetic has ceased, or if any serious injury has been inflicted on the animal, be killed before it recovers from the influence of the anæsthetic which has been administered; and

(6.) The experiment shall not be performed as an illustration of lectures in medical schools, hospitals, colleges, or elsewhere; and

(7.) The experiment shall not be performed for the purpose of attaining manual skill.

Provided as follows; that is to say,

(1.) Experiments may be performed under the foregoing provisions as to the use of anæsthetics by a person giving illustrations of lectures in medical schools, hospitals, or colleges, or elsewhere, on such certificate being given as in this Act mentioned, that the proposed experiments are absolutely necessary for the instruction of the persons to whom such lectures are given with a view to their acquiring physiological knowledge or knowledge which will be useful to them for saving or prolonging human life or alleviating human suffering; and

(2.) Experiments may be performed without anæsthetics on such certificate being given as in this Act mentioned that insensibility cannot be produced without necessarily frustrating the object of such experiments; and

(3.) Experiments may be performed without the person who performed such experiments being under an obligation to cause the animal on which any such experiment is performed to be killed before it recovers from the influence of the anæsthetic on such certificate being given as in this Act mentioned, that the so killing the animal would necessarily frustrate the object of the experiment, and provided that the animal be killed as soon as such object has been attained; and

(4.) Experiments may be performed not directly for the advancement by new discovery of physiological knowledge, or of knowledge which will be useful for saving or prolonging human life or alleviating human suffering, but for the purpose of testing a particular former discovery alleged

to have been made for the advancement of such knowledge as last aforesaid, on such certificate being given as is in this Act mentioned that such testing is absolutely necessary for the effectual advancement of such knowledge.

Use of urari as an anæsthetic prohibited.

4. The substance known as urari or curare shall not for the purposes of this Act be deemed to be an anæsthetic.

Absolute prohibition of painful experiments on dogs and cats.

5. Notwithstanding anything in this Act contained, an experiment calculated to give pain shall not be performed on a dog or cat, except on such certificate being given as in this Act mentioned, that for reasons specified in the certificate the object of the experiment will be necessarily frustrated unless it is performed on an animal similar in constitution and habits to a cat or dog, and no other animal is available for such experiment; and an experiment calculated to give pain shall not be performed on any horse, ass, or mule except on such certificate being given as in this Act mentioned that the object of the experiment will be necessarily frustrated unless it is performed on a horse, ass, or mule, and that no other animal is available for such experiment.

Absolute prohibition of public exhibition of painful experiments.

6. Any exhibition to the general public, whether admitted on payment of money or gratuitously, of experiments on living animals calculated to give pain shall be illegal.

Any person performing or aiding in performing such experiments shall be deemed to be guilty of an offence against this Act, and shall, if it be the first offence, be liable to a penalty not exceeding fifty pounds, and if it be the second or any subsequent offence, be liable, at the discretion of the court by which he is tried, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding three months.

And any person publishing any notice of any such intended exhibition by advertisement in a newspaper, placard, or otherwise shall be liable to a penalty not exceeding one pound.

A person punished for an offence under this section shall not for the same offence be punishable under any other section of this Act.

Administration of Law.

Registry of place for performance of experiments.

7. Every place for the performance of experiments under this Act shall be approved by the Secretary of State, and shall be registered in such manner as he may from time to time by any general or special order direct.

License by Secretary of State.

8. The Secretary of State may license any person whom he may think qualified to hold a license to perform experiments under this Act. A license granted by him may be for such time as he may think fit, and may be revoked by him on his being satisfied

A.D. 1876.

that such license ought to be revoked. There may be annexed to such license any conditions which the Secretary of State may think expedient for the purpose of better carrying into effect the objects of this Act.

Reports to Secretary of State.

9. Any person performing experiments under this Act shall from time to time make such reports to the Secretary of State of the result of such experiments, in such form and with such details as the Secretary of State may require with a view to the making such experiments useful.

Inspection by Secretary of State.

10. The Secretary of State shall cause all registered places to be from time to time visited by inspectors for the purpose of securing a compliance with the provisions of this Act, and the Secretary of State may, with the assent of the Treasury as to number and salaries, appoint any special inspectors at such salaries as he may think expedient, or may from time to time assign the duties of any such inspectors to such officers in the employment of the Government, who may be willing to accept the same, as he may think fit, either permanently or temporarily, and may, with the assent of the Treasury, assign to them such remuneration for their services as he thinks just.

Certificate of scientific bodies for exceptions to general regulations.

11. A certificate given as in this Act mentioned must be signed by one or more of the following persons; that is to say,

The President of the Royal Society;

The President of the Royal Society of Edinburgh;

The President of Royal Irish Academy;

The Presidents of the Royal Colleges of Surgeons in London, Edinburgh, or Dublin;

The Presidents of the Royal Colleges of Physicians in London, Edinburgh, or Dublin;

The President of the General Medical Council;

The President of the Faculty of Physicians and Surgeons of Glasgow;

The President of the Royal College of Veterinary Surgeons, or the President of the Royal Veterinary College, London, but in the case only of an experiment to be performed under anæsthetics with a view to the advancement by new discovery of veterinary science;

and also (unless the applicant be a professor of physiology, medicine, anatomy, medical jurisprudence, materia medica, or surgery in a university in Great Britain or Ireland, or University College, London, or in a college in Great Britain or Ireland, incorporated by royal charter) by a professor of physiology, medicine, anatomy,

medical jurisprudence, materia medica, or surgery in a university in Great Britain or Ireland, or in University College, London, or in a college in Great Britain or Ireland, incorporated by royal charter.

Provided that where any person applying for a certificate under this Act is himself one of the persons authorised to sign such certificate, the signature of some other of such persons shall be substituted for the signature of the applicant.

A certificate under this section may be given for such time or for such series of experiments as the person or persons signing the certificate may think expedient.

A copy of any certificate under this section shall be forwarded by the applicant to the Secretary of State, but shall not be available until one week after a copy has been so forwarded.

The Secretary of State may at any time disallow or suspend any certificate given under this section.

Power of judge to grant license for experiment when necessary in criminal case.

12. The powers conferred by this Act of granting a license or giving a certificate for the performance of experiments on living animals may be exercised by an order in writing under the hand of any judge of the High Court of Justice in England, of the High Court of Session in Scotland, or of any of the superior courts in Ireland, including any court to which the jurisdiction of such last-mentioned courts may be transferred, in a case where such judge is satisfied that it is essential for the purposes of justice in a criminal case to make any such experiment.

Legal Proceedings.

Entry on warrant by justice.

13. A justice of the peace, on information on oath that there is reasonable ground to believe that experiments in contravention of this Act are being performed in any place not registered under this Act may issue his warrant authorising any officer or constable of police to enter and search such place, and to take the names and addresses of the persons found therein.

Any person who refuses admission on demand to a police officer or constable so authorised, or obstructs such officer or constable in the execution of his duty under this section, or who refuses on demand to disclose his name or address, or gives a false name or address, shall be liable to a penalty not exceeding five pounds.

Prosecution of offences and recovery of penalties in England.

14. In England, offences against this Act may be prosecuted and penalties under this Act recovered before a court of summary jurisdiction in manner directed by the Summary Jurisdiction Act.

In England "Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her

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present Majesty, chapter forty-three, intituled "An Act to "facilitate the performance of the duties of justices of the "peace out of sessions within England and Wales with respect "to summary convictions and orders," and any Act amending the same.

"Court of summary jurisdiction."

"Court of summary jurisdiction" means and includes any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, exercising jurisdiction in pursuance of the Summary Jurisdiction Act: Provided that the court when hearing and determining an information under this Act shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

Power of offender in England to elect to be tried on indictment, and not by summary jurisdiction.

15. In England, where a person is accused before a court of summary jurisdiction of any offence against this Act in respect of which a penalty of more than five pounds can be imposed, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Form of appeal to quarter sessions.

16. In England, if any party thinks himself aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:

(1.) The appeal shall be made to the next court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than twenty-one days after the decision of the court from which the appeal is made; and

(2.) The appellant shall, within ten days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof; and

(3.) The appellant shall, within three days after such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow; and

(4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody; and

(5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information in accordance with the order of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Prosecution of offences and recovery of penalties in Scotland.

17. In Scotland, offences against this Act may be prosecuted and penalties under this Act recovered under the provisions of the Summary Procedure Act, 1864, or if a person accused of any offence against this Act in respect of which a penalty of more than five pounds can be imposed, on appearing before a court of summary jurisdiction, declare that he objects to being tried for such offence in the court of summary jurisdiction, proceedings may be taken against him on indictment in the Court of Justiciary in Edinburgh or on circuit.

Every person found liable in any penalty or costs shall be liable in default of immediate payment to imprisonment for a term not exceeding three months, or until such penalty or costs are sooner paid.

Prosecution of offences and recovery of penalties in Ireland. See 48 Geo. 3. c. 140., &c.

18. In Ireland, offences against this Act may be prosecuted and penalties under this Act recovered in manner directed by The Petty Sessions (Ireland) Act, 1851, and any Act amending the same; and in Dublin by the Acts regulating the powers of justices of the peace, or of the police of Dublin metropolis.

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Power of offender in Ireland to elect to be tried on indictment, and not by summary jurisdiction.

19. In Ireland, where a person is accused before a court of summary jurisdiction of any offence against this Act in respect of which a penalty of more than five pounds can be imposed, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Cruelty to Animals.

[H.L.]

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B I L L

INTITULED

An Act to amend the Law relating to Cruelty to Animals.

(*Brought from the Lords 29 June 1876.*)

Ordered, by The House of Commons, *to be Printed,* 18 *July* 1876.

[Bill 250.] *Under 2 oz.*